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THE

SPEECHES

OF

SIR SAMUEL ROMILLY

IN THE

House of Commons.

IN TWO VOLUMES.

VOL. II.

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SPEECHES,

&c.

CORRUPTION OF BLOOD ON ATTAINDER OF FELONY AND TREASON.

April 25th, 1814.

The House, on the Motion of Sir Samuel Romilly, having resolved itself into a Committee on the Bill for taking away Corruption of Blood, as a consequence of Attainder of Felony and of Treason, Mr. Yorke moved, that the words "and of Treason," should be omitted. The Amendment was opposed by Sir James Mackintosh; and supported by the Solicitor General (Mr. Serjeant Shepherd).

Sir Samuel Romilly said,—"The speech of my Hon. and Learned Friend has given me much concern, mixed however with some satisfaction. I am concerned to find that he is opposed to me on this question; and I am still more concerned to learn, that I am to have him for an opponent

to other measures, for the improvement of the law, which I may hereafter bring forward; but I feel satisfaction in finding, that his opposition will be conducted with that liberality which he has evinced to-night, and which any body who knew him would have expected from him.

"I cannot, Sir, consent to the alteration in the Bill which has been proposed by the Right Hon. Gentleman,—not because I am in the least disposed to render lenient the laws against treason and murder, but because it appears to me that corruption of blood is not a fit punishment for any crime. It has none of the properties of punishment. Punishment should be inflicted on the guilty, but this falls entirely on the innocent. Punishment ought to follow soon after the commission of the crime, that the idea of the one may be connected with that of the other; but corruption of blood often produces its effects many generations after the crime has been committed, and when the crime and the criminal have been long forgotten. Whether punishment should be inflicted or not, ought never to depend upon the pleasure of private individuals; but corruption of blood to interrupt the transmission of an estate, can only take effect when the ancestor is negligent enough to die without a will; for he is allowed to devise the estate to the very persons who are not permitted to inherit from

him; so that it depends upon accident or neglect, whether this shall or shall not be a punishment. All punishments by the constitution of the country the King has the power of remitting; but corruption of blood he cannot prevent, because it is considered merely as escheat, and, in many instances, confers rights not on the Crown, but on private individuals. When my Learned Friend stood forward to preserve this part of our Law, I did, I confess, expect that he would at least have taken notice of these difficulties, and have given some reasons why a punishment so anomalous, so much at variance with every other part of our criminal law, should still be continued as a part of it.

"If this be a fit law, it is fit that it should be the law of every part of the Kingdom. There is no reason why treason and murder should not be as effectually prevented in Kent, as in every other county of England; and yet in Kent, where the custom of Gavelkind, the ancient law of England, prevails, there is no corruption of blood for any offence. The Right Hon. Gentleman was mistaken, when he supposed, that this was amongst the most ancient of our laws; it was unknown in this Country, until it was introduced, with other oppressive refinements of the feudal tenures, by our Norman Princes. But the antiquity of the Law is really not worth inquiring into; the more ancient any criminal law, the less likely is it to

be founded on just and rational principles. Strange, indeed, would it be, if the experience of ages, and the progress of the human understanding, had improved every science, but that which is, of all others, the most important to mankind, the science of Legislation!

"The Solicitor General has denied, that the great men whose authority my Learned Friend near me has relied on,—those who framed and supported the Act, which declared, that corruption of blood should cease upon the death of the descendants of the Pretender*,—he has denied, that their authority can fairly be cited as condemning this law. They left it to prevail in all cases of Felony, although they consented to

* In order to abolish hereditary punishments altogether in cases of Treason, it was enacted by Stat. 7 Ann. c. 21, that after the decease of the *then* Pretender, no attainder for that offence should extend to the disinheriting of any Heir, nor to the prejudice of any person other than the Traitor himself. The 17 George II. c. 29, sect. 3, suspended the operation of this clause, until after the decease, not only of the said Pretender, but also of his eldest, and every other son. But now by the 39th of Geo. III. c. 93, the clauses in the two former Acts, limiting the duration of forfeiture for High Treason, are repealed; and the Law has been brought back, with respect to England, to the state in which it was before the enactment of the 7th of Anne. As to Scotland, the crime of Treason was by the Law of that Country, before the Union, in many respects different from that of Treason in England, particularly in its consequences of forfeiture of Entailed Estates, and Corruption of Blood.

abolish it after a time in the case of High Treason; and it would be a libel, he says, upon them, to suppose that this, which was to remain the law as to the less offence, was not, according to their intention, to be also the law as to the greater. This inconsistency, however, there certainly was in their proceeding, since they left corruption of blood permanent in the case of Felony, though they made it temporary only in the case of Treason. But no doubt they foresaw, that when it had ceased to be the consequence of Treason, it would necessarily be abolished by the Legislature as a consequence of Felony. Such Mr. J. Blackstone understood to have been their view of the subject; for in the last chapter of his Commentaries, where he passes in review the several changes and improvements which have successively taken place in our Laws and Constitution,—in enumerating the beneficial alterations which have been made since the Revolution, he mentions (after the Bill of Rights, the Toleration Act, and the Acts for securing the independence of the Judges, and for regulating trials for High Treason), the hope that has been afforded to posterity, that corruption of blood may one day be abolished and forgotten*. Such was the opinion which this Learned Judge entertained of those Laws, and so

* Comm. Book iv., p. 440.

important did he think it, that this doctrine should be abolished!

"When indeed I am charged, as I have been, with a desire to alter what has been so long the law of the land, and which is represented as so valuable a part of it, let me at least be allowed to say, that I have the fullest authority of Mr. J. Blackstone, that this alteration is most desirable. 'This corruption of blood,' he says, 'is one of those notions which our Laws have adopted from the feodal Constitutions at the time of the Norman Conquest; as appears from its being unknown in those tenures, which are indisputably Saxon, or Gavelkind; wherein, though by Treason, according to the ancient Saxon Laws, the land is forfeited to the King, yet no corruption of blood, no impediment of descents, ensues; and on judgment of mere Felony, no escheat accrues to the Lord. And therefore, as every other oppressive mark of feodal tenure is now happily worn away in these kingdoms, it is to be hoped that this of *corruption of blood*, with all its connected consequences, not only of present escheat, but of future incapacities of inheritance, even to the twentieth generation, may, in process of time, be abolished by Act of Parliament. And, indeed, the Legislature has, from time to time, appeared very inclinable to give way to so equitable a provision, by enacting, that in certain Treasons, respecting

the papal supremacy and the public coin, and in many of the new-made felonies created since the reign of Henry VIII. by Act of Parliament, corruption of blood shall be saved. But as in some of the Acts for creating felonies (and those not of the most atrocious kind), this saving was neglected or forgotten to be made, it seems to be highly reasonable and expedient to antiquate the whole of this doctrine by one undistinguishing law*.'

"I did not, Sir, expect, that upon this occasion we should have had any discussion upon the law of Forfeitures. That law, whatever be its merits, and whatever its defects, is wholly untouched by the Bill now under our discussion; and Forfeitures will take place after this Bill passes into a law, in the same manner, and in all the same cases, as it does at present. It was for this reason that, when I introduced the Bill into the House, I omitted to say any thing of the law of Forfeitures; and from this silence it is, that the Right Hon. Gentleman infers that I admit, that the argument formerly used as to the injustice of a Law, which punishes children for the crimes of their father, is to be considered as an exploded argument. So far am I from considering it as exploded, that I should rather say with my Hon. and Learned Friend near me, that it is an ar-

* 4 Black. vol. iv. p. 388.

gument which remains unanswered, and is unanswerable.

"All confiscations forming part of a sentence by which death is inflicted, are founded, in my opinion, upon the greatest injustice. To confiscate the property of the criminal whose life is left untouched, is to take from him the means by which the enjoyments and comforts of life are supplied; but if the law deprives him of life also, the forfeiture can only affect those whom he leaves behind him. Upon them alone the punishment falls; and if the offender be at all affected by it, it is only as he may feel and be afflicted *for them*. Almost all punishments, indeed, extend beyond the criminal against whom they are directed. The greatest criminals have often deserving relations and connexions, who sympathize in their sufferings, and who, though perfectly innocent, thus endure a part of the punishment; but this arises from the necessary imperfections of all human institutions. In the law, however, of Forfeiture, this, which is an unavoidable evil, but which all wise Legislators would, if it were possible, avoid, is the very principle upon which the law proceeds. The direct punishment is inflicted on the innocent, and it is by sympathy alone that the guilty is affected, if he be at all affected by it. To the most obdurate and hardened it is no punishment at all; to the less criminal,—to those

whose minds are not callous to all sense of virtue and of humanity, if to any, it can operate as a punishment. You choose for the instrument of your moral tortures the best feelings of the human heart, and aggravate and enhance your punishment, in proportion as the subject of it is less an object of detestation.

"M. de Tourreil, a French lawyer, who lived under Louis XIV. and who was greatly distinguished as a man of letters and a scholar, as well as a lawyer, in an elaborate defence of forfeiture, says, 'Il faut percer le cœur du Père dans le sein du Fils.' A more horrible sentiment can hardly be imagined, and yet this is without disguise the law of forfeiture. It is true, that the defenders of this law, when they are told of those countries in which Children were made by their deaths to atone for the crimes of their Fathers, express horror at such examples, by which they only show, that it is the degree, not the nature of the injustice, at which they are shocked. They would not consent to do so great a wrong as this; and yet every argument that they use, is as well calculated to justify that greater wrong, as the inferior injustice, to which they are willing to become parties.

"A passage was cited the other night, from the 'Considerations on the Law of Forfeiture,' as high authority upon this subject. I have the greatest respect for the memory of the author of

that tract; but from all that I have heard of his superior talents and endowments, I cannot but think, that it will be much to be lamented, if it is by that work principally that he is to be known to posterity. The great argument upon which he relies, is, that inheritance being a right in the ancestor of transmitting his estate to his posterity, he may justly be deprived of it for his crimes.—The power of alienation, by devise, or otherwise, is properly considered as a right; but how the suffering property to go in the course which the Law has ordered can be so considered, it is very difficult to conceive. A right is that which may or may not be exercised; but the course of descent from one from whom the power of alienation is taken away, is that over which he has no control, and which he can neither direct nor prevent; and yet, by this artificial subtlety of depriving a criminal of the right of transmission, it is, that this law of forfeiture has been principally defended. Upon the subject of corruption of blood, however, the author of that work has himself declared in a letter to Mr. Justice Blackstone, which has been already mentioned in this House, that he did not mean to give any opinion against the expediency of abolishing it*.

* Sir James Mackintosh remarked on this occasion, that of the two authorities, ancient and modern, usually cited, in justification of Confiscatory Laws, the ancient is now generally con-

"Both the Gentlemen say, that we have in the mild and merciful administration of justice, which has prevailed during the present reign, a sufficient security that this law will not be used oppressively; and they add, that there can be no doubt, that in the case which has been stated to have occurred during the last rebellion in Ireland*, the Crown restored the estate to the child of the Officer, who had fallen in resisting the rebels. Why, Sir, in many cases, the Crown has

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sidered as spurious; and the modern is in a great measure disclaimed by the Author. The letter of Cicero to Brutus, is rejected by the most learned Critics; and Mr. Yorke in a letter to Mr. Justice Blackstone, written in the maturity of his judgment and his fame, more than twenty years after his "Considerations on the Law of Forfeiture," requests the learned Commentator to strike out all reference to "a juvenile work;" and particularly states, that it was his object to explain the principle of the Law, without inquiring whether it had not been "carried too far." As this Letter had reference to those parts of the Commentaries, which related to corruption of blood, it is clear, that Mr. Yorke did not desire to be any longer considered as a patron of that Law; that he did not regard his riper judgment as pledged by the argument of a juvenile publication for a temporary purpose; and that his great authority is to be deducted from the topics which are pleaded in support of Confiscation in general; but more especially of corruption of blood.

* It was the case of an officer who fell in battle against the Irish Rebels, and whose children were deprived of their inheritance by the attainder of one of his relations engaged in that rebellion.

not the power to do this; and the very Gentleman who thus reminds us of the clemency of His Majesty, in the same speech tells us (with what consistency it will be for him to show) that we should remember, that by such a law as this, we shall take away the profits of escheats from Lords of Manors. It is, indeed, the peculiar absurdity of this, as a penal law, that it is not a forfeiture to the Crown, but an escheat to the immediate Lord; that whether it shall be inflicted, and to what extent, depends not on those who are acting on behalf of the public, and responsible for what they do, but on private individuals, who may be governed only by their own narrow views, or immediate interests.

"My Learned Friend objects to this mode of proceeding,—to thus bringing these subjects one by one before the House; and a Right Hon. Gentleman has said, that I ought to present my whole system at once; or, in other words, that I should come down to this House, and propose, for its consideration, an entire new Criminal Code. Now, Sir, I have no intention to adopt any such course. In the first place, I am not presumptuous enough to suppose myself qualified for any such task; and in the next place, if I were, I have no system to propose, nor do I think that any is wanted. As a general system, I have as much admiration and respect for our Criminal Law as

those Hon. Gentlemen themselves can have. In that system, however, there is, in my opinion, much which calls for improvement; and as I am not on the one hand vain enough to think that I could substitute a better in its place; so, on the other, neither will the observations of the Learned Gentleman, nor those which I have heard in other places from persons, whose eminent stations give their sentiments the weight of authority, prevent me, as long as I have a seat in this House, from drawing from time to time the attention of the House, to particular parts of the Law, which may seem to me to admit of, and to require alteration, improvement, and reform. It is in this way, as it appears to me, that any exertions of mine can be most usefully made. Great and extensive improvements and reforms cannot, with much prospect of success, be undertaken by those who are not in official situations. Success, in such attempts, is reserved for those who are advanced high in authority over their fellow-subjects; and it is this privilege alone,—it is the power afforded them of being extensively useful to their fellow-creatures, —of increasing present, and sowing the seeds of future happiness,—of being faithful Servants of their Country, and distinguished Benefactors to Mankind, which can make high and eminent stations objects of ambition to any well-constituted mind.

"The Right Hon. Gentleman asks, if this is a proper time to bring forward these innovations. Really, Sir, I know nothing in the present condition of this Country which makes such a measure now unfit to be entertained; nay, on the contrary, if ever there was a time in which it was peculiarly proper to entertain and encourage any attempt to reform our laws, and to improve the condition of the people, it is the present. Long has Europe been a scene of carnage and desolation. A brighter prospect has now opened before us; a wiser policy than that which has long prevailed is now likely to be adopted; the jealousies and ill will which have prevailed between rival States are subsiding, and nations will begin to discover the sources of prosperity to themselves in the prosperity of their neighbours, and to hail in the liberties of surrounding countries additional securities for their own. The conquest of territory, and the trophies of war, will cease to be objects of ambition. But (as has been nobly said, by the greatest Poet that this Country, or perhaps the World, has produced)—

——Peace hath her Victories
Not less renown'd than War*—

Victories over those baneful prejudices and mistaken notions of policy, which have in all ages

* Milton's Sonnet to Cromwell.

been nearly as destructive of the happiness of men as the sword of the Conqueror—Victories, such as this Nation obtained, when by us its representatives it proclaimed to the World, that there was an end to that lucrative but cruel trade in human liberty and life, in which we had too long participated—Victories, where the shouts of triumph and of thanksgiving ascend to Heaven, pure and undisturbed by the groans of the dying, or by lamentations over the dead.

"One thing more I ought to take notice of. The Right Hon. Gentleman says, that no case has lately occurred, which shows any inconvenience from this law. Sir, it is not necessary to produce any such case, since it is upon general grounds, and not in respect of any particular occurrence, that this interposition of the Legislature is called for. The truth, however, is, that a case has very lately occurred, and is still depending, in which the Crown has, as I think very harshly, insisted upon a claim founded on this law. In the reign of George II. a woman was convicted at Oxford of a murder. An estate, which devolved upon her, has been held from that time to the present by different purchasers, who have paid the full value for it; and now, at the distance of about half a century, the Crown has set up a claim to the estate as having escheated to it, by the attainder of the murderer. But the most singular circumstance is, that the person who has given to the

Crown the information on which it is proceeding, is the very woman who was attainted, and who, having received a pardon, is now at a very advanced age still living. And the circumstance in the case which appears to me to be one of peculiar harshness, is this: the present possessor of the estate, a Mr. North, desired that he might be permitted to disprove the fact on which the claim of the Crown was founded,—not the fact of the attainder, for of that there was no doubt,—but the alleged fact, that the estate was held of the Crown,—he insisting, that it was held of another Lord, and that the escheat was to him, and not to the King. Although the inquisition which had been taken was an *ex parte* proceeding, in which Mr. North had had no opportunity whatever of defending his property, the Crown resisted his request, and insisted that the estate should be taken from him, without allowing him to make any defence. It was not till after a hearing in the Court of Chancery, in which I happened to be Counsel for Mr. North, when the Court decided against the Crown, that Mr. North was allowed to traverse the inquisition, or, in other words, to be permitted to defend himself; and to show, by the evidence in his possession, that the Crown had no title. The traverse went down to be tried at the last Assizes, but the trial has been postponed. What in this proceeding can be found calculated, as all punishments should be, to prevent the com-

mission of crimes? As a penal Law, this cannot be justified: on no other principle does any one attempt to justify it, and I therefore confidently hope, that it will be abolished."

The House divided:

For the Amendment - -	47
Against it - - - - - -	32
Majority - - - - - -	15

Mr. Yorke then proposed, that the alteration of the Law should not extend to Murder or Petit Treason. The House again divided, when the numbers were,

For the Amendment - -	41
Against it - - - - - -	39
Majority - - - - - -	2

PUNISHMENT FOR HIGH TREASON.

April 25th, 1814.

On the Motion of Sir Samuel Romilly, the House resolved itself into a Committee on the Bill for altering the punishment in cases of High Treason.

The first Clause, by which it is enacted, that the convicted or attainted person or persons "shall severally be drawn to the place of exe-

cution on a hurdle, and be there hanged by the neck until he, she, or they be severally dead, and that the body or bodies of such person or persons shall be at the disposal of His Majesty and his Successors," having been read, Mr. Yorke moved, as an Amendment, that after the words "hanged by the neck until he, she, or they be severally dead," there be added these words, "and be then beheaded;" and that "the head or heads, and body or bodies, of such person or persons, shall be at the disposal of His Majesty and his Successors." Mr. Yorke said, he should not propose to strike out the Clause in the Bill, which gave the King power by warrant to alter the punishment to that of beheading, although, if the beheading was restored, that would hardly be necessary, as it was by remitting every part of the sentence but beheading, that the punishment had been sometimes mitigated by the Crown.

Sir Samuel Romilly. "Although I cannot approve of the Amendment of the Right Hon. Gentleman, yet it is not my intention to oppose it. I cannot think that any good effects are produced by the disgusting spectacle which is now exhibited, and which the Right Hon. Gentleman desires to preserve, of holding up the bleeding head of the Criminal to the view of the spectators. On the contrary, I believe that the worst effects are produced by it. We are so constituted by nature, that such spectacles of horror are seldom beheld

by any persons with impunity. I shall not however divide the Committee, as I have little prospect of its being of any avail. The Right Hon. Gentleman is, as I conceive, much mistaken in supposing, that the beheading of traitors at present takes place under the King's power to remit part of the sentence, although that notion is certainly countenanced by Lord Coke, and indeed by Lord Hale too. There are several instances of the Crown ordering Women convicted of Treason to be beheaded, although the sentence pronounced on them was that of being burned alive. In the case of Mrs. Lisle (who petitioned King James II. that she might be beheaded), the only mercy for which she presumed to hope, was, that she might be spared the torture of being burned alive. The King professed to doubt whether he had any power so to alter the sentence; and he did not grant the prayer of the petition until he had consulted the Judges, and they had removed his scruples. This notion, indeed, of remitting a part of his sentence, might be so used as to aggravate, instead of mitigating the sentence. As the Law now stands, the Traitor is not to be beheaded until after he is embowelled, and, consequently, until after he is dead. To declare that he shall be beheaded while he is alive, is in truth to alter the sentence, not to remit a part of it. If the Crown were to remit every thing but the embowelling, by which the

criminal would have to suffer that punishment while he was in full life, and before his sensibility was at all deadened by strangulation, could that be called a mitigation of the sentence? The truth is, as Mr. Justice Foster has stated, that this prerogative consists in substituting, with the consent of the convict, a milder in the place of a more severe punishment."

The Amendment was agreed to.

THE SLAVE TRADE.

June 28th, 1814.

Mr. Horner moved that an Address be presented to the Prince Regent, praying that His Royal Highness would be pleased to give directions that there be laid before the House Copies of all Representations made on the part of His Majesty's Government during the late Negotiation for Peace, and of all Communications which passed between His Majesty's Minister and the Allied Powers, relative to the Abolition of the African Slave Trade.

The Motion was opposed at some length by Lord Castlereagh; to whom Sir Samuel Romilly replied as follows:

"To those Members who were present when it

was arranged in what order the business respecting the Treaty should be brought before the House, it cannot be necessary to point out the injustice of the noble Lord's charge against my honourable and learned Friend, of having brought forward his Motion at an improper time. If he has moved for these papers only twenty-four hours before the Treaty is to be taken into consideration, it is because he has yielded to the wishes of others; and has, for their convenience, and most especially for the convenience of the noble Lord himself, postponed his Motion. It was desired by my honourable Friend, who sits behind me*, that his intended Address, which was yesterday unanimously voted by the House, should precede my learned Friend's Motion for Papers: this was the wish, too, of the noble Lord, expressed by him in his place; and he cannot have forgotten the reason he assigned for it, namely, that he doubted not, that, in the debate upon the Address, he should convince my learned Friend, that his Motion was unnecessary. The Address would have been moved for, a week ago, but for the noble Lord's indisposition. It was on his account alone that it was postponed to yesterday. The noble Lord was requested to defer the discussion of the Treaty for a few days; but upon this he was inexorable. Though no possible inconvenience could attend the delay, he in-

* Mr. Wilberforce.

sisted that the Treaty should be taken into consideration to-morrow. And after all this, and when it has been at his request, and for his personal convenience, and because he will not put off his own Motion, even for four-and-twenty hours, that this debate comes so close upon the consideration of the Treaty, the noble Lord is unjust enough to impute blame to my learned Friend, for not bringing on his Motion sooner. In the same spirit, and in a style of great exaggeration, he says, that the Treaty has been lying a whole month upon the table before these Papers are called for, although at the moment when I am speaking, a month has not elapsed since the Treaty, which bears date only the 30th of May, was signed, and although it was not till the 3d of the present month that this House was informed from the Throne, that it would attend to our wishes on this important part of the negotiation.

"I certainly shall not, Sir, by complimenting the noble Lord and his colleagues for their sincerity, and their services in the cause of the Abolition of the Slave Trade, provoke the same extraordinary return as my learned Friend has experienced; and as little shall I be deterred by the high and presumptuous tone which the noble Lord has this day assumed, from expressing my strong disapprobation of that article in the Treaty he has concluded, which relates to that odious Trade. If I knew, indeed, what claims the Ministers had to

praise upon this subject; I would not refuse to do them justice, even though my commendations were to be met with the same disdain as my learned Friend's; but I am really at a loss to conjecture on what those claims can be founded; and recollecting, as I do, in what manner, and to what an extent, the Slave Trade has of late years been carried on by Portugal, while the eminent services we had rendered that State gave us so good a right to require the total sacrifice of it on her part, I can see no reason to applaud His Royal Highness's Ministers, either for the zeal or the success of their exertions.

"It is impossible, I know, to speak of this article of the Treaty, in the severe, but just terms, which in my opinion it deserves, without incurring the imputation of acting with party views. Conscious that I am not in the smallest degree influenced upon this occasion by such motives, I regard all such imputations with contempt; but it may be well for those who are forward to cast them, to recollect that party is not the exclusive reproach of Opposition, and to consider, whether they, who defend and applaud in public what, in the secret of their own bosoms, they utterly reprobate and condemn, are themselves exempt from that party-spirit with which they suppose others to be infected.

"The noble Lord objects to the production of the Papers moved for, because this article cannot,

he says, be properly estimated, when taken disconnected from the rest of the Treaty and from the whole negotiation; and yet the noble Lord was content last night to enter into his justification upon this single article, and to postpone the rest of the Treaty to a future discussion; and well, indeed, may this part of the Treaty, from its higher importance, and as being the only subject of negotiation upon which this and the other House of Parliament thought it right to interfere with the executive power before the measure was concluded, challenge a distinct and independent examination. . . . .

"We are not, the noble Lord tells us, aware of all the difficulties which, upon this article, he had to contend with. We must not imagine, he says, that the French ascribe to us, all the merit which we claim for our Abolition of the Slave Trade. They do not give us credit for all that humanity and that love of justice which we pretend to. They doubt our sincerity, and not the common people only, but persons of a higher order; and even those, as he plainly gives us to understand, with whom he had to negotiate, entertained that doubt. It would be highly interesting to gain a sight of the papers, if it were only to observe how the noble Lord repelled that foul and unjust suspicion. No person better than himself, who had, to the very last, in this House, resisted the Abolition, could have assured them

of the perfect sincerity of those who had so long persevered in that just and righteous cause, and who, at the last, owed their glorious triumph to the strong sense and feelings of the nation loudly and repeatedly declared.

"The proofs of our sincerity are so many and so powerful, that the noble Lord cannot fail to have pressed them irresistibly upon his opponents. If to have relinquished this Trade, when we almost singly, of all the nations of the earth, might have carried it on; and when we might have prosecuted it to a greater extent, and with a much greater profit, than we or any other country had ever before derived from it;—if to have persevered steadily for seven years in this self-denial, and never to have shown the least symptom of an inclination to yield to the strong temptation, which this lucrative monopoly was holding out;—if facts like these left France unconvinced, then, indeed, is she not open to conviction.

"But what is the course which the noble Lord has pursued?—To prove how much we are in earnest on this important point, he has, on behalf of the British nation, affixed his signature to a Treaty, which, after recognizing the injustice and barbarity of the Trade, contains a stipulation, that for five years it shall be carried on. To remove all doubt of our perfect sincerity, he makes us parties to a convention, by which, with fine professions of a holy regard for justice and

humanity, we sanction, for a certain definite period, the practice of every species of oppression, robbery, and murder. What better plan could he have adopted, if his object had been to convert suspicion into proof, and to put into the hands of our detractors the formal and sealed evidence of our baseness and hypocrisy?

"What a melancholy prospect too does this French notion of our insincerity, thus confirmed by the noble Lord, afford, with respect to the stipulation, that at the end of five years the Trade by France shall altogether cease! Our only object being to gain some credit to ourselves, and to appear to all Europe the seeming champions of justice and humanity, the French are not unwilling to gratify our criminal vanity, and have, therefore, amused us with a declaration, that, after five years, they will cease to be traders in men—a declaration in which they have just as much sincerity as they impute to us; and having secured to themselves a Trade, which they know will continue after the stipulated period shall have elapsed, they pride themselves, no doubt, upon having met this nation of dissemblers with their own arts of dissimulation.

"Amongst other difficulties in the negotiation, France, we are told, would not submit to the humiliation of having the performance of a moral duty imposed on her. The cession, or the retention of conquered provinces, might well be sub-

jects of negotiation, without imputation upon a nation's honour; but to exact that the rules of natural justice should be observed, and to enforce a moral principle at the point of the bayonet, implies a species of degradation. I am unable (I confess it) to enter into these diplomatic refinements; but, if there be humiliation in stipulating not to carry on a trade repugnant to humanity and justice, that humiliation France has submitted to, since she has engaged, after five years, to renounce the Trade for ever; and how the honour of that nation would have been more deeply affected by an immediate renunciation than by one, which is to be preceded by five years of licensed devastation, piracy, and murder, the noble Lord has left wholly unexplained. To me, indeed, it appears that the negotiation might have been conducted on this point in a manner the most honourable to both nations. The Trade does not, at present, exist for either. With England it has ceased for the last seven years, by our own voluntary renunciation of it. With France it has ceased for upwards of twenty years, by the peculiar circumstances in which the war had placed her. France and England might have treated upon this subject on equal terms. Each might have contracted with the other, that this odious Traffic should be revived by neither, and a treaty might have been concluded more glorious for both, than any that has been recorded in the annals of mankind.

"The prejudices of the French, the noble Lord says, were to be attended to. That they have not at once adopted our opinions, cannot surprise us. We were long before we acted on them ourselves. Having been nearly twenty years abolishing this Trade, can we complain that France requires an interval of only five to prepare for its abolition? But when this question is asked, it should be recollected what the obstacles were which, in this country, so long retarded the accomplishing that great act of justice. They were obstacles which have no present existence in France, but which are preposterously, under the operation of this Treaty, to be created, in order, as we learn from the noble Lord, that by the slow progress of reason they may be in time overcome. The extensive influence of Liverpool and Bristol, and other great trading towns, opposed difficulties with us which it required much time and patience to remove. Happily no such influence now exists in France, but it seems that by the revival of the Trade, such an influence is to be generated, and to be fostered. Let the cause of humanity, the noble Lord says, be promoted in France by exactly the same means as it was in England. In other words, let Nantes and Bourdeaux, and other maritime towns, become the Bristols and Liverpools of France; let large capitals be embarked in the Trade; let the support of many thousands of individuals be made to depend on its continuance; enlist the activity and zeal of com-

mercial enterprise and adventure against you; multiply without number the enemies to the abolition, and then wisely trust to reason to refute their arguments and silence their clamours. Embody against you the most uncontrollable passions, and strongest interests, and most formidable combinations of men, and then calmly appeal to argument, to philosophy, and to religion, to disperse and to disarm them. Expect that some Clarkson will appear in France, who will consume his valuable life in the service of the most oppressed and despised of his fellow-creatures. Wait till some Wilberforce shall arise, who, with unexampled perseverance in spite of clamour, and obloquy, and ridicule, will maintain his steady course, till he sees the great object of his life accomplished. Rely upon the slow but certain effects of free discussion in popular assemblies, and by an unrestrained press; and, till all these causes shall have fully operated, be content that the work of death and devastation shall go freely on upon the shores of Africa.

"With us a most formidable obstacle to the speedy abolition of the Slave Trade existed in the strong and inveterate prejudice entertained by the proprietors of West Indian estates, that its sudden abolition must be soon followed by the destruction of their property. Their terrified imaginations painted to them insurrections breaking out in all the islands, and involving their plantations in one common ruin; or if, contrary to all

expectation, they should escape this sudden destruction, yet they foretold the gradual but certain waste of their slaves, the inevitable and rapidly increasing depopulation of the colonies by disease and death, without the possibility, when all supply of fresh Negroes was denied, of ever repairing the growing evil. This obstacle, once so gigantic, the noble Lord had it in his power in an instant to dispel. He had only to direct the view of the French negotiators to the large and valuable colonies which he was restoring to them by the Treaty, and which, under the abolition, had been for years in the enjoyment of perfect internal tranquillity, improved cultivation, and increasing population and prosperity.

"An argument, which in this country we heard often, and too successfully used against the abolition, is, that the Trade, though renounced by us, would still be carried on by other and rival States; and that we should see them extending their commerce, increasing their wealth, and improving their maritime resources, at our expense, while the cause of humanity was in no degree promoted, and not one African the less would be torn from his native land. Many thousands have been the lives which have fallen a sacrifice to this pernicious argument. Against the noble Lord, however, it was an argument which cannot have been urged with success; for it could not be doubted, that the powerful voice, and more powerful example of France, added to those of Great Britain, must

have commanded the total abolition of this nefarious Trade, by the general consent of all the Powers of Europe.

"Let us not, then, be told, that in desiring time to prepare for the abolition, France is only following the example we have set her." France, it must be again observed, is not required to abolish the Trade, but not to embark in it anew; and, with all the difficulties which the Abolitionists had to encounter here; with all the cause of just reproach, which certainly belongs to us, for having been so tardy in effecting what justice and religion, and our national honour, so long, so loudly, and so imperatively called for; yet it cannot be denied, that from the first moment when the attention of the public was awakened to the subject, there never was a time when this nation would have consented to incur the enormous guilt of creating such a traffic.

"But although France is to revive the Trade, it is only for five years that it is to be revived. Not, indeed, that there is any positive stipulation that at the end of that period it shall absolutely cease; but, if I have rightly understood the noble Lord, according to his construction of the Treaty, France merely engages, that after the five years, she will, by an act of her own, utterly renounce all commerce in Slaves; and upon this assurance the noble Lord relies. He really believes that the French nation, who, now that they

are yet strangers to the Trade, except as they have heard and read of it, and are capable, like impartial and philosophical observers, to estimate it justly, are not only not deterred by the horrors which it presents from embarking in it, but are even eager to plunge into this sea of blood, will, when they are once deeply and earnestly engaged in it, and are largely enriching themselves with its guilty profits, have the generosity and magnanimity to relinquish it for ever.

"In the mean time, and when the five years shall have expired, numerous difficulties, which do not now exist, will have arisen to obstruct the performance of their engagement. How differently circumstanced will France then be from what she is at present! Great capitals will be embarked in the Trade; numerous vessels will be employed in it; many thousands of individuals will have accustomed themselves to look to it for subsistence or support. France, too, will probably have engaged in, and long prosecuted her schemes for the reconquest of St. Domingo; and projects on this head have been talked of (but which, I trust, are not really entertained), the mere mention of which chills the heart with horror. When all these changes shall have taken place, by what arguments shall we persuade France to be faithful to her engagements? It cannot be by insisting on the great principles of justice and humanity. You have yourselves, she will reply, by the very Treaty

which you require us to fulfil, admitted that justice and humanity must sometimes yield to expediency; and the present expediency is of a far higher nature than that which prevailed when you concluded the Treaty with us. We had then few sacrifices to make; we must now ruin the fortunes of thousands, who have themselves well-founded claims upon our humanity. We have reconquered St. Domingo, but it has been after a long and arduous struggle, which has cost us innumerable lives. We have expended immense treasures, and have consumed the flower of our armies; and now that at such a price we have recovered, what may be to us the most important of our foreign possessions, you would fain persuade us to retain it just as war has left it, with its wasted plantations and desolated fields, a barren and depopulated island, because your humanity revolts at our supplying it with Negroes. That humanity would better have proved itself to be sincere, by insisting at first upon an immediate and perpetual Abolition, instead of suffering us to shed so much blood, and to waste such important resources, for the avowed purpose of re-establishing our valuable plantations, and then, when the season has at last arrived for repairing the mischief which it was well known must precede the benefits we had in view, endeavouring to prevent us from reaping the fruits of our dangers and exertions.

"I confess that I deeply lament, that five years

have been mentioned in the Treaty as the period at which the Trade is definitely to cease. Being fully convinced, for the reasons I have given, that the Trade will not end when that period arrives, I cannot but think, that the fixing it now as the moment of its termination, will only have the effect of giving a wider range and additional vigour and spirit to the trade at its commencement, and of rendering those, who engage in it, more earnest in their pursuits, and less under the control of any moral restraint. The traffic, no doubt, will be entered upon with all the eager spirit of adventure with which a new trade is always received; and at the same time the adventurers in it, understanding that it is to be but of short duration, will be disposed to profit to the utmost of the golden opportunity while it lasts. Intent on making their fortunes, they will persuade themselves that not a moment is to be lost; and the scruples which they might have entertained at the fraud, and rapine, and bloodshed which they will meet with in their way, will be lulled by the reflection, that those evils are only transient and temporary.

"It was with great surprise that I heard the noble Lord declare, that he really believed that the Trade would last only for five years, and that it would be carried on till that period with the honest expectation that at its arrival it would cease; for in saying this, the noble Lord, surely, could not mean to intimate, that it would be pro-

secuted on a larger scale, and assume a more atrocious character than it ever yet had done; and yet I cannot recollect the arguments used by the noble Lord himself upon former occasions, and suppose him unconscious that this must be the case. In a debate, which I remember took place in the year 1806, when this House resolved, that it would, at a time to be afterwards fixed, abolish the Trade, the noble Lord, as well as the Right honourable Gentleman * who sits near him, strenuously opposed that resolution, upon this, amongst other grounds, that the fixing a future time for the Abolition must always have the effect of giving new life and a wider extension to the Trade while it lasted; and experience, the noble Lord observed, had shown, that the fixing such periods always afforded a rich harvest to Liverpool. By the noble Lord's own reasoning, therefore, he has consented to a renewal of this detestable traffic, under circumstances which must add to its horrors, and extend its devastation; and that very increased activity and extension must, when the stated period for its termination arrives, make its termination impossible.

"That the British nation should be party to a Treaty, by which a traffic in human beings is sanctioned, is alone a sufficient cause of reproach;

* Mr. Bathurst.

but to feel the whole extent of the disgrace which this Treaty brings upon us, it is necessary to consider what the real nature of this traffic is. The Slave Trade is, indeed, no where mentioned but with some epithet which expresses the horror that it inspires. It is described as inhuman, as sanguinary, as detestable, or by some other vague and general term of reprobation; but such terms can convey but a very inadequate notion of the real horrors of this Trade, to those nations which are happily strangers to it in practice. But, in this country, it is in no such imperfect and indefinite mode that this horrible traffic, this foul reproach to civilized society, is known. What the Trade really is, we have fully ascertained. We have, as it were, reckoned up and taken the exact dimensions of all the miseries and agonies it inflicts. What might seem to others to be the heightenings and amplifications of eloquence, we, alas! know to be plain fact, incontestably proved. We have made ourselves acquainted with the Trade in its manifold, complicated, and unexaggerated horrors. We have dared to scrutinize minutely into every part of it. We have, by long and patient examinations of numerous witnesses, traced in the very heart of Africa, the superstitions and barbarism, in the darkness of which its nations are still enveloped, to this powerful cause. On those shores which have intercourse with Europeans, we have almost with our own eyes beheld

the wasted fields, and ruined villages, and flying inhabitants, which with certainty denote that slave-ships are hovering on the coast. We have even descended into the holds of the ships, and have had the courage to survey, and to expose to open day, the chained and crowded victims, writhing with agony, or wasting with disease, during the protracted sufferings of the middle passage. We have traced up to this, as their source, all those habitual severities and cruelties, and that constant contempt of human life and human misery; which distinguish West Indian from every other species of slavery; and it is this Trade, thus known to us in the full extent of all its abominations; this system of fraud and oppression, and rapine, and cruelty, and murder, examined into, understood, scrutinized, exposed, and execrated, to which the noble Lord has, by this Treaty, given the sanction of the British name!

"If the Treaty had been in other respects less favourable to us, we should at least have had the consolation of reflecting, that we had not profited by this dereliction of all honourable principle, and that we had not sold our consent to such enormous injustice; but with the stipulations in our favour which we know that it contains; with St. Lucie and Tobago, and the Isle of France retained by us; with the engagement, that no fortifications shall be erected in the French settlements in India, and with the other benefits which we have bar-

gained for, how can we defend ourselves from self-reproach, or silence our consciences, which tell us that these concessions have been purchased for us with the blood of Africa?

"In consideration of our receiving these benefits, we consent that France shall carry on the Slave Trade; and to enable her the more successfully to carry it on, we restore to her her ancient factories on the coast of Africa. She is to be reinstated in Goree and Senegal, almost in the centre of that large district from which this fatal Trade had been wholly extirpated, and where we saw the dawn breaking of that happier condition which the natives were beginning to enjoy. This is the prosperous region which we consent to abandon to the ravages of the slave-merchants of France. Like faithful stewards, we have improved the country for them while it has been in our hands; we have increased its population; we have encouraged its inhabitants to settle in its peaceful villages; we have, by the instruction we have given them, and the confidence we have taught them to place in Christians, soothed them into a fatal security; and we deliver up to its bitterest enemies this improving territory, well stocked with plentiful crops of Negroes, and supplied for its savage hunters with abundance of human game. The very benefits we have conferred on these unhappy beings, the comforts to which we have accustomed them, and the know-

ledge we have imparted to them, will only embitter their misfortunes, and make them feel more acutely the full extent of the misery and degradation which now await them.

"But turning our view from Africa, to consider how the West Indian islands we have ceded will be affected by this article of the Treaty, I cannot, I confess, but entertain great doubt whether we had any right to make such an alteration in the condition of its inhabitants as this stipulation must necessarily effect. The great population of all the islands consists, we must recollect, of negroes and slaves. This population, notwithstanding their degraded and unhappy state, have claims upon us to protect them; and have rights which we are bound to maintain. Though the slaves of their masters, they are the subjects of the Crown, and are entitled to the protection of the law. The Abolition of the Slave Trade has done much to meliorate the condition of these unhappy men, and has mitigated the character of their slavery. To accomplish this, indeed, was, I think I have heard my honourable Friend say, the principal object which he had in view when he first entertained the design of putting an end to this detestable Trade. The calamities of Africa, and the horrors of the middle passage, had not at first presented themselves to his view. He foresaw that West Indian slaves would be less likely to be worn down by continual and exhausting labours, or to be sacri-

ficed by sudden gusts of passion, or deliberate resentment in those on whom they were entirely dependent, when their loss could not be replaced by the never-failing supply which the Slave Trade afforded. To some degree what he foresaw has come to pass. Wretched, indeed, is their condition still; but it is less wretched than it was, when fresh cargoes of slaves were every year exposed to sale in the markets. We have had, indeed, some remarkable proofs of the improvement of their condition. Not the least of them is, that since the Abolition, we have seen what no eye before had ever beheld, and no ear had ever heard, a white proprietor brought to trial for the murder of his slave, convicted, and publicly executed. All improvement, however, with them, is now at an end. By the terms of the Treaty, we have not merely transferred the dominion over these colonies to a foreign state, but we have in effect agreed that their inhabitants shall pass under a more cruel bondage than that which they groan under at present, since we have consented that there shall be withdrawn from them the most effectual of all restraints upon those wanton abuses of power, to which men in a state of domestic slavery must be constantly exposed.

"When applied to the island of Guadaloupe, these considerations acquire ten-fold force, and place the conduct of Ministers in a most extraordinary point of view. In the last year we ceded

that island to Sweden, but under an express stipulation that the Slave Trade should never be carried on there. Sweden could not, without a breach of national faith, either by herself, or by any other power to whom she might have transferred the colony, have polluted its shores with this inhuman Traffic. But what we would not allow Sweden to do, we do ourselves: we consent that the island shall be given up to France, without affording it any protection against the Slave Trade. We make ourselves parties to a violation of our own Treaty; and, without compunction, sanction a breach of those conditions, which, with such seeming anxiety, we had provided for the happiness of the colony.

"But after all, we are told, that to submit to all this, was matter of necessity; for on this point France was determined not to yield. We had only to choose, it seems, between permitting her to carry on the Slave Trade or still prosecuting the war; and the noble Lord asks whether, for such an object as that of putting an end to the Trade five years sooner or later, we should have been justified in prolonging such a contest, without the assistance, too, of our allies; and, he adds, with Lord Wellington's army far advanced into France, and wholly unsupported. But really, Sir, I cannot think, that these difficulties presented themselves with quite so formidable an aspect as the noble Lord would represent. I cannot forget that

he has himself assured us, that the Sovereigns, our allies, were sincerely and zealously desirous to abolish the Slave Trade; and when I recollect the circumstances in which France stood, and the extraordinary events which had preceded the negotiation, I cannot persuade myself that England was obliged to treat so much in the spirit of a conquered country, that merely because France was pleased to threaten a continuance of the war, we were necessarily to relinquish the just demands that we had made. The noble Lord must himself admit, that so high a tone, so unreasonably assumed by France, could have afforded no justification for his yielding every thing, no matter how unjust, which it might have been her pleasure to exact. If she had presumed to dictate to us, as the indispensable price of peace, that Gibraltar should be ceded to her, the noble Lord assuredly would not have thought a prospect of the continuance of war a sufficient reason for making a sacrifice to France of that proud monument of our glory; and yet, for no better reason, he has sacrificed to her what, in my judgment, was a monument of much greater glory to the British name.

"But who, indeed, can be credulous enough to believe, that we ever were reduced to the necessity of relinquishing either peace or the Abolition of this Traffic? If we were to admit that France, in the situation in which she stood, could, with any appearance of reason, have peremptorily

insisted on carrying on the Trade, yet was it not most obvious, that we had a right to retain the colonies which conquest had made our own, unless France would consent, that from them, at least, the Trade should continue, as it then was, wholly excluded? Who, indeed, can look at the Treaty, and observe what we have retained, and what we have stipulated for, without being convinced that we never were reduced to this pretended necessity? But we preferred, it seems, Tobago and St. Lucie, and the other comparatively light advantages which we have secured for ourselves, to the honourable duty which was imposed upon us, of effacing for ever the foulest stain that had ever blotted the character of Europeans and of Christians.

"Long and lasting must be the reproach which this has drawn upon us. The noble Lord has complained, indeed, of the melancholy suggestions of my honourable Friend, with which, he says, he has endeavoured at this hour of congratulation, to dash the cup of enjoyment from the lips of the nation. I confess, it appears to me, that this is the moment, of all others, when it most becomes us to appreciate the real nature of this article of the Treaty, and to consider in what light it places us as a nation. It is now, while our ears are vibrating with shouts of triumph, and while our imaginations are still dazzled with the splendour of our late rejoicings, that it behoves us to exa-

mine the part that we have acted in the great events which have taken place, and to consider whether we have fulfilled the high destiny to which God seemed to have called us; whether, on the contrary, we have not basely deserted the cause of our fellow-creatures which was committed to our hands; and whether, while we are drinking in this intoxicating cup, and feasting at the banquet which is set before us, some unperceived hand is not inscribing on the wall, the sentence of our condemnation."

"To obtain the concurrence of other States in the Abolition of the Slave Trade, has long been an object of earnest solicitude to this House, even before we had passed an Act to abolish it for ourselves; but when, under the administration of 1806, no doubt was entertained that such a law would speedily be enacted, this House presented an Address to the Crown, entreating His Majesty to take measures for establishing, by negotiation with foreign powers, a consent and agreement for abolishing the African Slave Trade, and representing to His Majesty, that this House felt the justice and honour of the nation to be deeply and peculiarly involved in that great object; and we were assured, by His Majesty, that these our wishes should be attended to.

"In 1810, this House again approached the Throne, and, after expressing its deep regret that the efforts which the King had made to induce

foreign powers to concur in relinquishing this disgraceful commerce, had been attended with so little success, earnestly besought His Majesty to persevere in those measures which might tend to bring about so desirable an end. The same gracious answer was returned to these renewed entreaties, the same royal pledge was again given, that it should not be through any omission on the part of the Crown, that our hopes and wishes should be disappointed.

"At last an opportunity presented itself for realizing those hopes, and gratifying those wishes, such as the most sanguine could hardly have pictured to themselves in their fondest dreams of prosperity;—a concurrence of circumstances the most fortunate, I should rather say, the most providential, for rendering this great benefit to our fellow-creatures and to posterity; such an opportunity for concluding the most glorious treaty that ever was entered into between rival and contending nations, as might have warmed the coldest heart, and have inspired the most vulgar mind with a noble and virtuous ambition.

"That such a crisis had arrived, we knew could not escape the observation of any man; that it would pass away unimproved, we did not suppose possible; and yet, that there might be no omission on our part, that we might, as it were, make assurance doubly sure, that where such important interests were at stake, there might not be even

the appearance of our being, in the smallest degree, wanting to ourselves and to mankind, this House unanimously resolved again to address the Throne, and to represent to it all that the occasion demanded of us, the right which our situation gave us to insist upon this point with the enemy, the evils that would result, and the dreadful responsibility we should incur, if it were given up, and the solemn assurances and pledges which the Crown had repeatedly given us, and upon which we had firmly relied. And after all this, possessed of such advantages, strengthened by such an address, and stimulated by such considerations, what is the Treaty which the Ministers have concluded? One that disappoints all our hopes, blasts all our prospects, seals our perpetual disgrace, and leaves us to deplore, that we have lost an opportunity of benefiting mankind, and ennobling ourselves, such as the world will, probably, never again afford!

"That I take this view of the subject will, I know, by some persons, be ascribed to the spirit of party; but thinking, as in my conscience I do, that in concluding this Treaty, every moral and religious duty has been disregarded, ought I, from any such trivial consideration, and, because I cannot blame the measure without censuring the men who are the authors of it, to refrain from expressing my real opinion? Let me rather again remind those who, thinking as ill of the Treaty as I do, are yet so far influenced by their partiality to

Ministers, that they will either observe a criminal silence, or give their sanction to it by their votes, that they are, indeed, acting from the worst of party motives; and let me caution all such persons how, at any future time, they receive favours at the hands of Ministers, lest their consciences should tell them that such favours have been obtained at the expense of the happiness and blood of Africa.

"My honourable Friend *, indeed, who practises every Christian virtue, has expressed, in strong terms, his disappointment and regret at this Treaty; but yet he has the exemplary forbearance, while he deeply deplores, not to censure, the conduct of the negotiator. A most remarkable instance of Christian charity it unquestionably is; for there is no individual in His Majesty's dominions, who, if in considerations of such a superior importance, we could be allowed to mix any thing which merely affected ourselves, has more reason to complain than my honourable Friend. There is no man living whom it can have robbed of a larger portion of happiness. After devoting the best part of his virtuous life to this great object; when by long-continued and unwearied exertions, after repeated disappointments, and by a perseverance without example, he had, at last, at a mature period of his life, accomplished the object to which he had devoted

* Mr. Wilberforce.

all the faculties of his mind; when he was beginning to reap the full rewards of his long labours,—rewards the most congenial to his heart, and the best adapted to services such as his,—the satisfaction at seeing the progress of the good, of which he had been, in so great a degree, the author; while he was every year receiving from Africa and from the West Indies, the tidings of the improved condition of his fellow-creatures; while he saw in Africa the dawnings of civilization, the calm and the tranquillity which reigned in their contented villages, the instruction which was afforded to their youths, and the comforts which the light of true Religion was every day diffusing among the natives; and, on the other hand, in the West Indies, the mitigation of the labours and sufferings of the Negroes, and law extending its protection to these unhappy outcasts of society; while he was cheering his mind, long depressed by the miseries which he had been compelled, for so many years, to dwell upon, with the refreshing sight of this comparative happiness, and was eagerly looking forward to the further progress of this great good, and was expecting, from still greater improvements in the moral existence of those to whom he had already been so great a benefactor, the best consolations of his declining age; what a prospect of the future has the noble Lord opened to him!—The sudden revival of this horrid Traffic, upon the largest scale, and in its most

ferocious spirit; all his exertions and his anxieties, and his sacrifices of time, and health, and fortune, endured in vain; a renewal of the plunder, and carnage, and devastation, which used to lay waste the shores of Africa; new fleets sailing across the Atlantic, freighted with human misery in every form and every degree; new markets opened, in which rational beings, like beasts of the field, are to be again exposed to public sale; the revival of a more severe and a more cruel species of bondage, more exhausting toils, a lower species of degradation, augmented tortures; an aggravation of all the anguish of body and mind, which wastes and consumes so large a portion of our fellow-men; and the sickening certainty, that all these complicated evils tend to confirm, and perpetuate, and aggravate each other, and that they forebode scenes more dreadful even than those which they exhibit!

Such are the melancholy prospects which this Treaty affords to those who had been earnest in procuring the Abolition, and who were pleasing themselves with the reflection of the great benefits which they had obtained for mankind, or, in other words, to the great majority of the British nation. With these prospects before us, I cannot applaud the Treaty. I am desirous, with my honourable Friend, to have all the information that can throw light upon the negotiation; but if that information is withheld, and I am compelled to decide with

no other lights than I at present possess, I must say, that the Treaty appears to me, as far as it respects the Slave Trade, to be repugnant to justice and humanity, disgraceful to the British name, and offensive in the sight of God.

THE MILITIA.

February 28th, 1815.

The Order of the Day having been read, Sir Samuel Romilly rose, and spoke to the following effect:—"Sir, I shall offer no apology to the House for renewing the Motion which I made in the last Session relative to the continuation of the Militia embodied in time of Peace. The importance of the subject, and the consideration which it deserves, must be fully felt and acknowledged by every Member of this House. The circumstances, however, under which it is now brought forward, are, in many respects, different from those which attended the case on its discussion in November. The definitive Treaty of Peace with France had, at that period, been but recently signed; and the negotiations at Ghent were still proceeding, with little hope of their speedy ter-

mination. Those negotiations have been since happily brought to a close; and although the Treaty has not yet received the ratification of the President of the United States, there is little danger of the war with America being prolonged by any refusal on his part. It is true, that several of the Militia Regiments have been disbanded since I first brought this question before the House; but the circumstance of a part of that body remaining embodied nine months after a Treaty which is supposed to have secured the peace of Europe, and when no symptom of rebellion or insurrection exists in the Country, affords ample ground for Parliamentary notice.

"The Militia Service exacts the severest sacrifices from the lower orders of the People. To the opulent it is simply a Tax; but to the poor it is a compulsory personal service, under circumstances of peculiar hardship,—of separation from their homes and families,—of abandonment of their civil occupations,—of deprivation of civil privileges, and of subjection to military law. It should, therefore, only be required when the exigencies of the moment demand it;—when the State is in immediate danger,—when a foreign force has landed, or threatens to land,—or when an insurrection or rebellion has actually broken out. The Constitution also requires, that the exercise of the Royal Prerogative of embodying the Militia, shall be accompanied by a declaration of the circumstances

which demand it;—that these circumstances shall be immediately stated to Parliament, if sitting; and, if not sitting, that it shall be summoned together for that purpose. Feeling as I do, upon this subject, I consider it my public duty to assert, that the Regiments remaining embodied, are detained contrary to Law. To discover this requires no great legal knowledge; and every County Member is as competent to decide upon the subject as the oldest Lawyers of the Crown. But however unconstitutional I may deem the continuance of the Militia embodied in time of Peace, I must protest against its being inferred as the consequence of this doctrine, that persons enrolled in that body may quit their Regiments, or are at liberty to disobey the orders of their Commanders. They have no right whatever to do so. They are to serve 'as long as the Militia shall remain embodied," the Legislature never having intended to leave with the individuals constituting that body, so dangerous a power as that of determining the exact moment at which the causes of their enrolment may cease.

"Without entering into the history of the Militia in the earliest times, it will be sufficient to state, that the King never had the power of calling for the personal services of his subjects at pleasure. The Statutes of Edward the Third and of Henry the Fourth provided, that no man should be compelled to march out of his shire but in

cases of urgent necessity, such as 'the sudden coming of strange enemies into the realm *.' After the Restoration of Charles the Second, various Acts were passed for the regulation of the Militia, but none compelling them to leave their own Counties, except in cases of actual invasion or rebellion. Subsequent Statutes relative to the Militia have proceeded upon the same principle. The preamble of the 42d of the present King, chapter 90, states, that it is of importance to the internal defence of the Realm, that the Militia should be embodied; and the eleventh section enacts, that in all cases of actual invasion, or upon imminent danger thereof, and in all cases of rebellion and insurrection, it shall be lawful for His Majesty to draw out and embody the Militia.

"But although the Legislature has been thus jealous in specifying the causes for which the Militia shall be called out, it has made no declaration of the time when it is to be disembodied. It is on this ground; it is by taking advantage of this omission, that Ministers have thought proper to continue that Force on foot; contending, that the King having once called it out, may, in the absence of any express legislative enactment to the contrary, keep it embodied at pleasure, and, that the only limit to this power,—the only secu-

* 1 Ed. III. sec. ii. c. 5.—4 Hen. IV. c. 13.

rity of the subject against the abuse of the Royal discretion; is the responsibility of his Advisers!—Sir, in opposition to this doctrine, I might maintain, that Laws are not always to be interpreted according to their strict letter,—but according to their spirit,—according to their true meaning and intent. In the present case, however, there is nothing even in the letter of the Law to authorize the proceeding of Ministers. The Legislature has specified the causes for calling out the Militia; and those causes (in the rational interpretation of the Act) can alone warrant the continuance of it. *Cessante causâ cessat effectus*, is not only a rule of Law, but a maxim of common sense. Undoubtedly, the Crown has a discretion in judging of those causes,—in determining whether they continue, or have ceased to exist. No one is at all inclined to dispute this power. But when it is clear to the conviction of every individual in the kingdom,—that these causes have all ceased,—when the fact is so self-evident, that even Ministers will not venture to doubt it, then, I contend, that there no longer remains any room for the exercise of this discretion. If the Advisers of His Royal Highness can say, that there exists the slightest danger of Invasion from abroad, or of Rebellion or Insurrection at home, they will, at least, have a pretext for their recent conduct. Sir, I repeat, that they dare not allege the existence of any such causes. Never was there a

period of more general tranquillity than at the present moment.

"It has been urged, however, that there is a construction of this Law by usage. Sir, I defy His Majesty's Advisers to produce a single instance in which the Militia has been kept embodied except in the time of actual War, and when the enemy threatened to invade our coasts. It was not kept embodied at the conclusion of the American and French War in 1783. It was not kept embodied at the conclusion of the last War. And yet what were the circumstances under which that Peace was made? Did any man acquainted with the situation of the Country imagine, that it was likely to be of long duration? Can it be forgotten, that the man who was then at the head of the French Government, under the modest title of the First Consul, had been strengthening himself with new alliances, and was cherishing the most inveterate hatred towards this Country? And yet, with a knowledge of all these circumstances, on the part of Government, the Militia was disbanded! The Noble Lord in whose department the matter now rests (Lord Sidmouth), was then at the head of the Administration; but neither he nor those who acted with him, dared to give such an interpretation to the Law, as they have now thought proper to adopt. What has occasioned this change of opinion in Ministers? Whether the exultation manifested at

the late Peace, has induced them to suppose, that this is a favourable opportunity for exacting new sacrifices from the People, I know not.—Of this alone I am certain, that no such construction as that now contended for by Ministers, was ever before given to the Militia Laws.

"Since this subject was last before the House, I have had an opportunity of seeing the opinions of the Law Officers of the Crown, of the Attorney and Solicitor General, which have been read at the heads of the different regiments, as declaratory of the Law of the Land!—Without any personal disrespect for those Gentlemen, I must still be allowed to say, that I should have preferred the opinions of any two other Barristers of equal standing, *not* having the advantage of Royal favour. The opinions of the latter would be entitled to more consideration, as being less likely to be influenced by political feeling. What would the House have thought of the opinion of Sir John Finch in the case of Ship-money? Does any one suppose, if his opinion had been taken on that measure, that it would have been satisfactory to the People? It was this circumstance, perhaps, which induced Charles the First to resort, not to the Law Officers of the Crown, but to the Judges of the Land. *Their* authority was deemed indispensable for sanctioning the imposition of Ship-money with the appearance of Law. It is true, that our present Ministers have not yet ventured

this length. They have not yet called on the twelve Judges for their *ex parte* opinions of a case which they might afterwards be compelled to decide.—Still, that the seal of judicial authority may not be wholly wanting,—that a greater weight may be given to their proceedings than can be supposed to result from the unsupported opinion of an Attorney or Solicitor General, they have favoured us with that of the Chief Justice of Chester *! The Chief Justice of Chester has prejudged a case which may hereafter come before him in his judicial capacity. He has prejudged it, too, on *ex parte* evidence,—without hearing the whole matter in dispute,—without even attending to the arguments of one of the contending parties! Nor is the time which Ministers have chosen for procuring this opinion less objectionable. In the case of Ship-money, the advice of the Judges was called for to regulate the future measures of Government: in the present instance, Ministers act first, and call for advice afterwards. They keep the Militia embodied, and then inquire whether they are impeachable for what they have done. Is this a mode calculated to procure from their legal Advisers a free and uninfluenced opinion as to the real state of the Law?

"The Circular Letter from the Secretary of State to the Colonels of Militia, says, that some

* Sir William Garrow was, at the same time, both Attorney-General and Chief Justice of Chester.

doubts having been expressed as to the legality of keeping the Militia embodied, the Question has been referred to the Attorney and Solicitor General;—and the Law being thus ascertained, the Colonels are ordered to read it at the head of their respective Regiments for the purpose of satisfying the minds of the Men. The two first lines of the Attorney and Solicitor General's answer to the Secretary of State are not a little remarkable. 'We have had the honour' (said the Attorney and Solicitor General) 'to receive your Lordship's letter of *yesterday*'s date.' Now I think that a subject of this importance required a little more consideration. The Law Officers might have taken rather more than twenty-four hours to ascertain the old Law and extent of the Royal Prerogative on this subject; without any imputation of ignorance or unnecessary delay. They were asked, whether under any circumstances it was imperative on the Crown to disembody the Militia. To this they reply, in effect, that there is nothing imperative in the Act; that when once the Militia is embodied, it may be continued so, at the discretion of Ministers, who are thus constituted sole judges of the course which it may be 'expedient' to pursue. We have often heard of *Necessity* being urged in defence of illegal measures. In the room of that despotic plea, we are now to have the doctrine of *Expediency*.—Thus, as long as it may appear expedient to Ministers, men, who have

not volunteered their services, are to be kept from their homes and families, subject to all the severities of Martial Law, and deprived of all the comforts and of all the privileges of civil life;—and for this violation of their Liberty, they are told, to be satisfied with the responsibility of Ministers!—Is this a sufficient answer,—this a sufficient remedy for the People? In what time, in what country, under what arbitrary government, have not Ministers been responsible?—Our ancestors, whose wisdom has been the theme of such frequent panegyrics in this House, imposed restraints upon the Royal Prerogative, but these are now obsolete. Expediency supersedes Law, and the security of our liberties is henceforward to depend on the vaunted responsibility of Ministers.

"In another part of the answer, which I ought also to have stated, the Attorney and Solicitor General further say, that 'whereas by section 144 of the Act of the 42d of the King, it is declared lawful to disembody any part or portion of the Militia, after being embodied, and from time to time to draw out again such part or portion so disembodied, they are of opinion, that if the external relations and internal situation of the Country should be such as to call for, and justify, a reduction of any part or portion of the Militia, it is in the power of His Majesty's Ministers, in the exercise of the discretion vested in them, to suspend any order issued for such reduction or dis-

embodying, but not carried into execution; and further, as long as any regiment continues to be embodied, to call out again all the rest of the Militia actually disembodied.' According to this opinion, His Majesty's Ministers may, at any time when they deem it expedient, call out again the whole of the Militia now disembodied. Let the House reflect on the extent and consequences of this doctrine,—on the abuse of it which may follow in times to come. One stretch of authority leads to another. By lending our sanction to the conduct of Ministers on the present occasion, we are not merely protecting them, but are establishing a precedent for every future adviser of the Crown. By tolerating this doctrine of the Attorney and Solicitor General, we virtually supersede those enactments which have been deemed necessary by the Legislature; for the security of the subject, and enable Ministers at once, without impediment or delay, to call out, or keep embodied, the whole Militia Force of the kingdom.

"But it is said, that if the Legislature had desired to impose limits on the Royal Prerogative as to the time of disembodying the Militia, it would have specified its intention by express words. It has done so in the Local Militia Act; why should it have omitted that precaution in passing the Act under the consideration of the House? Now I really am at a loss to comprehend the force of this reasoning, or to see the

necessity of the inference, which we are desired to draw from these premises. It will be for the ingenuity of my learned Friends opposite to show, how an ordinance which passed the Legislature without discussion, is to throw any light upon the intentions of Parliament at the time of its passing the Militia Act. The single question, after all, is this, whether, the causes for calling out the Militia having ceased, the power of keeping them embodied ought not to cease also? Such care and anxiety having been manifested to prevent an improper exercise of the Prerogative in the one instance, is it probable that the Legislature should have left it altogether uncontrolled in the other? The doctrine which has been avowed by the Law Officers of the Crown, cannot but be attended with the most fatal effects to the Militia Establishment. Indeed, the tendency of almost every measure adopted of late years in respect to that body, has been to leave every thing burdensome, and to take away whatever might be beneficial in the service. Men of landed property are every day less and less inclined to enter it. Their reluctance will be still farther increased;—for what can so effectually deter Gentlemen from accepting Commissions when the Country is in danger, as the idea, that their services are to be continued as long as Ministers shall think fit to command them, under the pretext, perhaps, of a War in India, or of some intended adjustment as to the balance of

European power? But the greatest hardship is, that to which the Privates will be subject,—more especially those who, from their inability to procure substitutes, have been compelled to serve in person. Forced from the civil walks of life, and obliged to remain in arms without necessity, at the will of Ministers, I can see little difference between their case and that of the French armies, whose situation, under their late Chief, has so frequently excited the commiseration of this House. According to the interpretation now attempted to be put upon the Militia Laws, there is not an individual but will be liable to be called out, and to serve, not only in cases of national emergency and danger, but on whatever occasions, and for whatever period, may be deemed expedient by Ministers.

"I shall detain the House no longer. Admiring, in common with every friend of Freedom, the institution of the Militia, I cannot silently acquiesce in any measure tending to pervert its spirit. I have, therefore, once more submitted this subject to the consideration of Parliament; and whatever may be its fate, this night,—however different from what my sanguine wishes would gladly anticipate, I shall at least have the consolation of having endeavoured to perform my duty."—Sir Samuel Romilly concluded, by moving, "That nine months having now elapsed since the Definitive Treaty of Peace with France was

signed, and this Country having during the whole of that period been at peace not only with France, but with every power in Europe; and no cause whatever having existed, or now existing, for apprehending invasion by a foreign enemy, or any insurrection or rebellion within the realm, it is contrary to the spirit and true intent and meaning of the Act of 42 George III. c. 90, to continue any part of the Militia Force of this Country still embodied."

After some discussion, the House divided—

For the Motion - - - -	76
Against it - - - - - -	179
Majority - - - - - -	103

INSOLVENT ACT.

May 9th, 1815.

Mr. Serjeant Best rose to move the second reading of the Insolvent Debtors' Act. General Thornton expressed a wish that the second reading might be postponed, as many Gentlemen who intended to deliver their sentiments on the Bill, had left the House. Mr. Serjeant Best having acceded to General Thornton's request, Sir Sa-

muel Romilly rose, and spoke to the following effect:—

"Although it is far from being my wish to press the second reading of this Bill, or to interfere with any arrangement which may be deemed necessary for the attendance of those Members, who are desirous of taking a part in the discussion of it; yet I cannot lose this opportunity (the only one I probably shall have) of troubling the House with the few observations, which I think it my duty to offer on the subject.

"There is perhaps no part of the English Law, which requires more consideration than the Law relating to Debtor and Creditor. It is a subject highly worthy of the wisdom and humanity of this House, and I trust, that it will at length receive the attention which its importance deserves. To me the Law appears to have proceeded altogether on an erroneous principle. It is too harsh towards the *person*, and too relaxed towards the *property* of the Debtor. It imprisons the Debtor for not applying his property to the fulfilment of his engagements, while it leaves the property itself, which might have been adequate for the purpose, free and untouched. The consequence is, that there exists no distinction between insolvency and fraud. The same walls frequently contain half-famished creatures, who would perish for want but for the gaol allowance, and persons revelling in luxury, who prefer a residence in prison to the

honest payment of their debts. An angry Creditor might, until very lately, have doomed his Debtor to imprisonment for life,—a punishment too severe for almost any crime. As far as the last Insolvent Act remedied this evil, it had my cordial approbation. That Act was indeed defective in many of its clauses; it left much to be done; but it was in every point of view an improvement on the periodical Acts which had preceded it. Proceeding on a principle familiar to the legislation of other countries,—that of the *Cessio Bonorum*, —it enabled the Debtor, by an honest surrender of his effects, to recover his liberty. It interposed, ere it was too late, to rescue the unfortunate from the moral contagion of a Prison, and gave to the most imprudent and even criminal, an opportunity of retracing their steps, and of becoming, by the exercise of their industry and talents, useful members of society.

"Holding this opinion with respect to the last Insolvent Act,—believing that the evils attending it, have been exaggerated, and that the good, which it has effected, is not sufficiently known, I can by no means concur in the Preamble of the Bill now before the House,—at least in that part of the Preamble which describes the former Act as injurious to the interests and the morals of the People. Where is the proof of any such evils having resulted from it?—It is said to have affected credit, but it can only be a credit of the

worst species. It does not interfere with commercial credit, but only with that mischievous credit which Tradesmen are in the habit of giving to persons in low situations, which frequently leads them to live beyond their circumstances, and which, in the end, is equally prejudicial to both parties.

"With regard to the Bill proposed by my learned Friend, it appears to me in many respects objectionable. It is intended to embrace two objects;—the one, to compel the application of a Debtor's property to the payment of his debts;—the other, to inflict certain degrees of punishment upon Debtors having no property, or only a small portion. Nothing can be more consistent with justice than the first of these objects,—but I do not think the mode proposed by my learned Friend the best adapted to the purpose. To compel a man to make a declaration upon oath, and then, if that declaration is not in every respect correct, to punish him as a felon, is contrary to the soundest principles of Legislation. I am aware that under the Bankrupt Laws such a practice prevails, but it does not, therefore, follow, that it will be wise to adopt a similar practice with regard to other Debtors. The very severity of such an enactment will render it ineffectual. Such has been the case with the Laws to which I have just alluded. Such has been the case with the Lords' Act from which the proposed

Clause is, I believe, exactly copied, and which is already obsolete. Is it not, therefore, advisable to dispense with an enactment, which, in all probability, will soon become a mere dead letter, and to substitute in its stead something better calculated to attain the desired end? A Clause might be introduced compelling the Debtor, by legal process, to surrender his property to the use of his Creditors, and enabling the latter to take the funds of the former in execution. A remedy might also be provided against Sham Pleas, Writs of Error, and the various other artifices by which the profligate and unprincipled are in the habit of protracting the proceedings, and increasing the expenses of their Creditors*. Indeed, I had hoped, that some of these evils would have found a remedy in the present Bill, as no person is better able to introduce provisions for that purpose than my learned Friend. As for Writs of Error, they ought, as far as it is practicable, to be prohibited

* On a subsequent occasion, Sir S. Romilly noticed a Letter on this subject, which had accidentally fallen into his hands. It was from a London Attorney to the Debtors in Gloucester prison, instructing them in various practices of chicanery,—in the use of Sham Pleas, and in suing out Writs of Error before the signing of final judgment. It recommended them (in case they were desirous of being *particularly troublesome)* to make the Writs of Error returnable in Parliament. By these and similar proceedings of a dilatory nature, Debtors, at a trifling cost to themselves, might put their Creditors to an expense of several hundred pounds!—*See Parliamentary Debates of April 28th*, 1817.

in all cases where there is no substantial error, and where they are merely resorted to as instruments of expense and delay. For this purpose, no Writ of Error should be allowed, unless the error is certified by two Counsel. That alone, in my judgment, would operate as a material improvement on the Law.

"Sir, I will now advert to the second object of this Bill,—the infliction of punishment on Debtors having little or no property. The learned Serjeant has proposed a graduated scale, by which a Debtor having given up all his property, is still to be imprisoned for a longer or a shorter time in proportion to the amount of the Dividend which he may have been enabled to pay. Thus, if a man's property is only equal to the payment of five shillings in the pound, he is to be imprisoned perhaps twice as long as the individual who is able to pay ten shillings in the pound, and so on, in a certain gradation. Is this just?—If a Debtor be guilty of fraud, let him suffer for the offence, but do not make the number of shillings which he may be able to pay in the pound the criterion of his guilt or innocence. Do not condemn as a crime, that which frequently deserves to be commiserated as a misfortune. Do not confound all moral distinctions by thus identifying insolvency with fraud, and dooming the unfortunate and the criminal to the same punishment."

Sir Samuel Romilly concluded with observing, that he had been as anxious, in his consideration

of the subject before the House, to attend to the interests of the Creditor as to those of the Debtor. They were interests which ought not to be separated; what was for the good of the one, would be found, he believed, equally advantageous to the other. Much, however, remained to be done, and he trusted that the subject would receive the fullest consideration of Parliament.

THE ADDRESS.

Febrtary 1st, 1816.

In consequence of the indisposition of the Prince Regent, the Session was opened by Commission, when the Lord Chancellor, as one of the Commissioners, delivered the usual Speech to both Houses of Parliament. The principal topics to which it adverted, were the continuance of His Majesty's illness, the restoration of Peace, and "the re-establishment of the authority of His Most Christian Majesty in the capital of his dominions." An Address, the echo of the Speech, was then voted by both Houses. That of the Commons was moved by Sir Thomas Dyke Acland, and se-

conded by Mr. Methuen. It was opposed by Mr. Brand, Lord John Russell, Mr. Brougham, &c.; and supported by Lord Milton, the Chancellor of the Exchequer, Lord Castlereagh, and Mr. William Elliot. Sir Samuel Romilly said,—"However unwilling to enter, at this early period of the Session, on any subject connected with the foreign policy of this country, I cannot, by my silence, allow the House to suppose that I approve of all that has fallen from the honourable Gentlemen opposite in support of the Address. Upon some of the topics, indeed, to which they have adverted, there is little room for difference of opinion. No one can refuse to concur with the honourable Baronet, either in his regret at the continued indisposition of His Majesty, or in the exultation with which he dwells on the restoration of a general Peace. There is no one but will be anxious to acquiesce in the eulogies which he has passed on the valour and discipline of our soldiers, and on the glory of those achievements which have so highly exalted the military character of this country. But however I may concur in these points, however I may rejoice in beholding, at length, an end to the hostilities which have desolated Europe, I must still dissent from the unqualified approbation which has been lavished on the cause for which they were undertaken, and on the manner in which they have been terminated. I must still protest against the principles upon which Ministers have acted,—principles not less at va-

riance with the soundest and most obvious maxims of reason and justice, than with their own repeated declarations. The House cannot surely have forgotten those declarations. It cannot have forgotten the solemn and explicit manner in which His Majesty's Ministers, on all occasions, not only when the war commenced, but while it was in its progress, down even to the moment when Parliament last separated, disavowed those very principles which now appear to have regulated their whole subsequent conduct. They protested against all interference with the internal affairs of France. They declared that the war was carried on against Buonaparte individually. They indignantly disclaimed the intention, which was imputed to them by their political opponents, of influencing the French people in the choice of a Sovereign. Nothing,—(as it was even intimated to Buonaparte himself,)—nothing was further from the intentions of the British Government than to take a part in restoring Louis the Eighteenth to the throne of France!

"Such was the language of Ministers in Parliament during the last session: such also were the professions of the Allies. In a letter to the noble Lord opposite (Castlereagh), dated Vienna, May 6th, 1815, Lord Clancarty, speaking of the allied Sovereigns, says, 'In this war they do not desire to interfere *with any legitimate right of the French people; they have no design to oppose the*

claim of that nation to choose its own form of government, or intention to trench in any respect upon their independence as a great and free people. But they do think that they have a right, and that of the highest nature, to contend against the re-establishment of an individual, as the head of the French government, whose past conduct has invariably demonstrated, that, in such a situation, he will not suffer other nations to be at peace.'— And again, in the same letter, 'However general the feelings of the Sovereigns may be in favour of the restoration of the King, they no otherwise seek to influence the proceedings of the French in the choice of this or any other dynasty or form of government, than may be essential to the safety and permanent tranquillity of Europe. Such, my Lord, are the general sentiments of the Sovereigns, and of their Ministers here assembled, &c.'*

"These principles were professed even after the battle of Waterloo. They were proclaimed in the triumphant march of the allied armies. They were avowed by the Duke of Wellington until he arrived at St. Cloud.—Up to the convention of Paris, the same language was continually held—

* See also the memorandum of the 25th of April 1815, to the treaty between His Britannic Majesty, and the Emperors of Austria, Russia, and the King of Prussia; as well as the speeches of the Earl of Liverpool and Viscount Castlereagh in the Houses of Lords and Commons.

even to the deputies from the provisional government. On the occupation of Paris, however, the veil was withdrawn, and the policy and intentions of the allies were at length revealed to their astonished enemies. The war commenced, as it had been so solemnly protested, for the sole purpose of excluding Buonaparte from power, was then found to have for its object the restoration of the House of Bourbon. In contempt of the declared wishes and feelings of the nation, Louis has been replaced upon the throne of France, while a foreign army is henceforward to be kept up in that country to enforce obedience, and to resist every movement of the people, in vindication of their rights.—And what has been the pretext for this altered policy on the part of the British Government and its allies? What sudden change of circumstances has occurred to authorize them in acting on a system which, until the moment of its adoption, they so strenuously deprecated? Was it their triumphs, their unexpected successes, that gave birth to this new policy? Was it the power, so fortuitously thrown into their hands, that induced them to enforce principles so diametrically opposite to their former professions? If so, where is their faith to the French people? They have broken their engagements, they have renounced their professions. Instead, therefore, of concurring in the praises which have been lavished on the conduct of Ministers, I feel it my duty thus publicly to protest against measures so

inconsistent with every received principle of equity and good faith, with every principle which once distinguished the policy and character of this country.

"Averse as I have uniformly been from war, I cannot but rejoice at the re-establishment of peace. Peace is always desirable, and I would, therefore, wish it to be lasting. But to be secure, it must be honourable; it must be founded on the basis of reciprocal confidence and good-will; it must leave behind it no stings of hatred and revenge. Not so the present peace. It is the bitter fruit of unjust compulsion and arbitrary power, and contains within itself the seeds of its own destruction."

FREEHOLD ESTATES BILL.

February 7th, 1816.

Sir Samuel Romilly.—"Sir, I rise, in pursuance of the notice which I have given, to move once more for leave to bring in a Bill to render Freehold Estates liable to Simple Contract Debts. As it is a measure which has already passed this House twice, and on the last occasion even without opposition, I should not have thought it necessary to repeat a single observation upon the subject,

had it not been for the objections which have been urged against it in another place; objections, which may seem to require an answer, if not for their own intrinsic weight, at least on account of the very high authority from which they have proceeded.

"By this Bill, as I have already stated, it is proposed that Freehold Property shall be subjected to Simple Contract Debts; that those, who are the objects of a testator's bounty, shall be compelled to fulfil his pecuniary engagements; that they shall not be allowed to live in splendour on his property, while his honest creditors remain unpaid, struggling perhaps with all the vicissitudes of trade, or reduced to bankruptcy and ruin. Against this proposition I can imagine no valid objection. It is a remedy for gross injustice; for, with what other epithet than unjust ought that principle to be qualified which this Bill proposes to remove? Is it not manifestly unjust, that whilst one description of debtors shall be obliged to deliver up the whole of their property to their creditors, and, should that prove insufficient to satisfy every demand, be still liable in their persons to all the evils of imprisonment, another description shall be allowed to transmit their property untouched by law, and above the reach of the most equitable claims?

"Sir, I know it has been said, that the rules of natural justice are not applicable to this question; for it is not natural justice, but the law of

the land, which allows a man to inherit or dispose of his real estates. Now, admitting this position, that the right of inheriting and alienating land is not a natural right, but the mere creature of civil society, is the proprietor, on that account, to be absolved from all obedience to the first principles of natural reason and justice? Is it less incumbent on the Legislature to qualify its bounty with such conditions as shall be deemed essential to the existence of those principles? Or will it be contended that it is inconsistent with them, or rather that it is not of their very essence, that every man should be liable, according to his ability and means, to the payment of his debts? At present, it is in the power of the possessor of a Freehold Estate to bestow it upon whomsoever he chooses; on persons who are aliens alike in blood and affection. The heir may be disinherited, may be exposed to beggary by the most capricious transfers of that property, which, whether allowed to descend to him, or lavished upon strangers, is, in either case, equally exempted from contributing the smallest portion of its profits for the purposes of common justice,—for discharging debts which have been contracted by its former possessor!

"But the present measure, we are told, is to make the Law do for the creditor that which he might, if he pleased, have done for himself. By what means? By refusing all credit to his customers or employers? By rejecting, in the ordinary course of business, the usual negotiable securities

drawn at a short date, and by insisting, every moment, on having recourse to bonds, mortgages, and all the sealed securities recognized by Law?

"Sir, it is a strong argument for the repeal of this Law, that its evils fall most frequently upon those who are least able to sustain them,—upon poor servants, inferior tradesmen, and orphan children. To the latter it has sometimes been productive of the most fatal consequences. Personal property bequeathed in trust, or the proceeds of real estates devised to be sold for their benefit, may be vested by the trustee in the purchase of lands, which, when devolving to his heirs or devisees, will not be liable to the claims of his injured wards, who are merely Simple Contract Creditors, and as such (unless there should be assets) must be altogether destitute of remedy or resource! Cases of this description have frequently occurred in our Courts of Equity.

"This state of the law is peculiar to this Country and Ireland. It is not the law of our Colonies; it is not the law of Scotland, though so jealous of alienation; it is not the law of the Continent, where the remains of feudal strictness more generally prevail. Why then is it permitted to continue the reproach of England? If, indeed, the removal of this evil would, by any probability, leave room for greater evils, I should admit that it was the duty of the Legislature to pause, and to acquiesce in any present inconvenience, rather than to hazard a remedy at the expense of dan-

gerous and uncertain consequences. But what are the consequences to be apprehended from this proposed alteration, in the imagination of its opponents? Why, truly, that it will be attended with difficulty in its execution; that it will involve the titles to Freehold Estates in perplexity and doubt; and will lead to endless litigation and expense. If the Bill should be adopted, they say, no one on whom Freehold Property has devolved will be able to dispose of it without a decree in a Court of Equity, or without being fully satisfied, that the Simple Contract Debts of the testator are discharged; and it is asked, whether it would be reasonable to subject the disposal of Freehold Property to such an obstacle and incumbrance? But the fact is, that no such consequences are to be apprehended. Was it not, indeed, for the high authority from which the assertion has proceeded, I should scarcely notice it with respect. The liability of Freehold Estates to Bond Debts has been productive of no such evils. Why should we anticipate such frightful effects from making them subject to every other just demand? But the objection, if in any degree valid, would have been equally applicable to the Act which passed the Legislature in 1807, for subjecting the Freehold Estates of persons engaged in trade to the payment of Simple Contract Debts. And yet no inconvenience or difficulty, such as is now apprehended, has been found to result from that Act. No extraordinary litigation or expense has been incurred to facilitate the dis-

posal of the Freehold Property of traders. On the contrary, the experience which we have had of that measure is such as to warrant me in proposing this. While, on the one hand, it has proved the groundlessness of the apprehensions now expressed; on the other, it has led to the greatest public advantages, by enabling, in many cases, honest creditors to recover debts for which they would otherwise have had no adequate remedy.

"Another objection, which has been raised against the present measure, is, that it does not go far enough; that it should have included Copyhold Estates! And from whom does this objection come? Not from the friends of the Bill, but from its adversaries,—from those who condemn its principle, who deprecate the lengths to which it already goes, and who would impede its progress, by involving it in additional difficulties. It is notorious, that, according to the Law, Copyhold Estates are not liable to the payment of any debts, even during the life of the debtor; and yet by these objectors it is desired to subject them to Simple Contract Debts after his death. But what is the obvious wish of these objectors? What, but to have the measure decried as a deep and daring innovation,—as a lawless invasion of manorial rights? What, but to render the opposition against it more formidable, by calling into action the clamours of prejudice, and by exciting weak alarms for the menaced institutions of our forefathers? However desirous I might feel to

include Copyhold Estates in the present Bill, I am conscious that I could not make the attempt without hazarding the safety of the whole measure.

"The next objection to this Bill (and it is only necessary to state it, in order to demonstrate its futility) is, that, by allowing debts to be established by mere *parol* evidence, it will offer an encouragement to perjury. But parol evidence is sufficient to establish claims upon a debtor in his lifetime, and why not after his death? It is sufficient to establish claims upon *personal* property, and why not then upon *real* property? If, indeed, such evidence were to be deemed insufficient, a most material change would be made in our Law, affecting alike every description of property and contract.

"A further objection to this Bill is, the facility of obtaining credit, which it is supposed to afford to young men of fortune. But is this really the case? Does any one, seriously reflecting on the subject, imagine that a tradesman, in furnishing goods, looks forward to the demise of his debtors?—That he will be less influenced by the power of immediate arrest and consequent judgment, than by the ultimate hope of coming, at some future period, upon their Estates?—That he will prefer a remote and contingent, to an instant and certain remedy, and will give credit to probably younger men than himself, in expectation of being paid after their decease? Cases of this

kind, however possible, are not likely to be of very frequent occurrence. Besides, it is notorious, that those who are in the habit of giving credit or lending money to support the extravagance of young men, generally take care to secure themselves by Bonds and Agreements, which already affect Freehold Property; and the only object of this Bill is, to put Simple Contract Creditors, whose claims are probably more just, in the same situation. But the use which has been made of this argument about credit is somewhat curious. When an objection is wanted for any measure tending to relieve the debtor, the only danger to be apprehended is the diminution of public credit. Now, when it is proposed to do justice to the creditor, by enabling him to come upon the property of his debtor, our fears are to be turned into an opposite direction, and we are to believe that credit has been already carried to too great an extent in this country. If so (and should the complaint in either of these cases be well founded, it must be in the latter), I should say, let imprisonment for debt be abolished. That would operate as an effectual check upon credit. It would moreover be the means of rescuing a large portion of our countrymen from the moral as well as physical contagion of a gaol; a far more politic and beneficent measure, than locking up the Estates of the unprincipled or thoughtless from the claims of their honest creditors.

"But it is further urged in opposition to this measure, that it is unconstitutional—that it interferes with the rights of Juries! Now, with all the respect which I entertain for that institution (and no man, I believe, reveres it more than I do), I am compelled to say, that the recovery of a debt is frequently more cheap and expeditious by a Bill in Equity than by an Action at Law, which is, in so many cases, liable to be defeated by an injunction from the Court of Chancery. Is it not, therefore, under such circumstances, better for the Creditor at once to resort to a Court of Equity than to have his difficulties and expenses increased by proceeding in the first instance by action? Far be from me the desire of unnecessarily driving parties into the expense and delay of a suit in Chancery; far be from me the wish even to substitute a Bill in Equity for an Action at Law. My only object is to shorten the proceedings and to limit the expense, by affording the parties relief in one Court instead of driving them into two. At present, they are exposed to litigation both in Law and Equity. By the proposed measure, they will be saved from the necessity of resorting to the former by finding a ready and efficient remedy in the latter. It will be competent, however, for any Member who conceives that the desired end may be attained by other means, to propose an amendment, giving

to the Creditor the alternative of proceeding either by Action at Law or by Bill in Equity.

"As for any thing which has been urged against this measure on the ground of its tendency to weaken the Aristocracy, I am really ashamed to advert even for a moment to such an objection. The most malignant enemy of that body could have devised no charge so calculated to bring it into unpopularity and contempt as this insinuation, that the consequence of its members depends on an exemption from the necessity of discharging their debts,—on the privilege of being allowed to commit injustice, and to injure the other orders of society with impunity! Let us rescue the Aristocracy from so unmerited an imputation; let us show, that it owes its weight in the public estimation, not to unjust distinctions of Law, but to those virtues which, I trust, will never cease to be the characteristics of English Gentlemen.

"There is yet one more objection to which I must allude. It has been suggested that this is not a single measure,—that it is a part only of a system for altering the whole code of English Law. But is this an argument which ought to prevail? Is a good measure to be rejected because it may possibly be followed by a bad one? The progress of the latter can be in no degree facilitated by the success of the former. The objection, however, (admitting its validity), is not

founded upon fact. I have no such intention as that imputed to me. There are many reforms, indeed, required in the Laws of Debtor and Creditor; and happy should I be if I could propose them with any prospect of success. Notwithstanding the repeated boasts which we hear respecting our system of Law, there are undoubtedly parts of it which must be acknowledged by all to be in some degree defective, and but ill suited to the state of society in which we live. The Law of landed Property more particularly was framed with a view to a feudal, rather than a commercial state of society; and with all becoming deference and respect for the wisdom of our ancestors, it is really paying too much veneration to their institutions to continue them unaltered when the motives which gave them birth have altogether ceased, and when the state of society in which they originated, and for which they were perhaps adapted, has undergone an entire change. From a feudal, we have become a great commercial country; and it is therefore necessary to accommodate our Laws to the altered circumstances of the age.

"But to say nothing of the principle of the Law,—to say nothing of the circumstance that only one half of a debtor's Lands can be taken in execution by the creditor, or that Land devised or descending to the heir is not subject to the Simple Contract Debts of the ancestor or devisor, even though the money borrowed has been vested

in the purchase of that very Land, it is notorious that a debtor can always protract the payment of his debts by delays profitable only to the legal profession,—by Writs of Error, Sham Pleas, and other tricks too numerous to be mentioned. It is, indeed, most desirable that these should be all abolished, and happy should I feel at being the instrument in so blessed a work. I have now, however, only to propose the single measure which I have been describing; a measure rendered more necessary, if possible, at the present than at any former period, by the aggravated distresses of the country, and by the important alteration, which has been adopted in our civil policy, by the introduction of the Insolvent Debtors' Act. That Act, with all its defects, I still continue to think beneficial, and in every respect superior to the periodical Acts which preceded it. Much, however, remains to be done in order to render equal justice to the creditor, by giving to him the fair benefit of his debtor's property. To contribute, however inadequately, to this desirable end, and to remove an evil which I cannot but consider as a reproach to the justice of this country, is the object of the measure which I once more venture to submit to the consideration of the Legislature. I have now only to apologize to the House for having trespassed on its patience; and to express a hope, that if I have been guilty of prolixity, it will be ascribed to its true cause,—to an earnest

anxiety to obviate every unfounded objection, and to make myself as intelligible as possible, upon a subject of so much importance to the landed and commercial interests of this country."

Leave was given to Sir Samuel Romilly to bring in the Bill *.

ADDRESS UPON THE TREATIES WITH FOREIGN POWERS.

February 19th and 20th, 1816.

Lord Castlereagh, after a long and elaborate speech, in which he took a view of the principal events which had occurred in Europe during the preceding year, and of the situation in which this Country was left with respect to Foreign Powers, concluded by moving an Address to the Prince Regent, expressive of the satisfaction of the House at the Treaties which had been entered into by His Royal Highness, for the peace and security of Europe.

To this an Amendment was proposed by Lord Milton, complaining of the impolicy of those Treaties, and of their tendency to inflame and

* This equitable measure passed the House of Commons without opposition, but was rejected (for the *third* time) by the House of Lords.

prolong the animosity of France by the stipulations which they contained for keeping up a large allied force on the frontiers of that country. After a protracted debate, in which Mr. Fazakerly, Sir James Mackintosh, Lord Nugent, Mr. Law, and Mr. Douglas bore a part, Sir Samuel Romilly rose, and said;—

"Sir, Thinking and feeling as I do upon this subject,—concurring neither in the proposed Address, nor in the unqualified praise which has been lavished upon Ministers, I cannot consent to give a silent vote,—more especially after the allusions which have been made by the noble Lord (Castlereagh) to what fell from me on the first night of the Session *. The subject of discussion, in whatever point of view we may contemplate it, is most important; but in that which regards the interposition of Great Britain in the settlement of a government for France, it is of higher importance, and demands more serious consideration, than perhaps any question which has occurred within living memory. In order to justify this interference, the noble Lord has taken two grounds. First, he has argued the abstract point, whether under any circumstances it is competent for one nation to intermeddle with the internal government of another: and secondly, whether, under

* Lord Castlereagh had alluded to what was said by Sir S. Romilly on the subject of Lord Clancarty's despatch of the 6th of May 1815. See page 71.

the peculiar circumstances of the present case, Great Britain had a right to interfere for the purpose of imposing a government upon the French nation. On the first of these questions (though the noble Lord has widely enlarged upon it, and upon other topics connected with it,—as whether one government is at any time called on to assist another against revolted subjects,—and whether it is justifiable to interpose for the protection of individuals persecuted for their religious tenets)—on the first of these questions it is not my intention to trouble the House, not merely on account of the various considerations which its discussion must involve, but because it is wholly beside the real subject of dispute, which is included in the second branch into which the noble Lord has divided his inquiry.

"Sir, to justify our interposition with the internal affairs of France,—to show that this principle of foreign interference for which the advocates of legitimacy are now so anxious, has been recognized by this country, the noble Lord has referred us to the Triple and Quadruple Alliances, and imagining them to be cases in point, has taunted the Whigs of the present day with a total dereliction of their ancient principles. Certainly the charge cannot be retorted on the modern Tories. No one will accuse the noble Lord and his followers of having degenerated from the tenets of their fathers, after having revived the

long-exploded doctrines of passive obedience and indefeasible right! But the precedents which the noble Lord adduces are wholly inapplicable. He forgets, in the eager indulgence of his irony, the principal facts of the cases to which he has chosen to refer. The House, however, will not fail to recollect what it has suited the purpose of the noble Lord to overlook. Sir, the object of our ancestors, it is well known, was to resist those very principles which their pretended admirers are now labouring to establish. They combined with foreign powers *not* to uphold the claims of despots, but to guarantee the rights of nations; they confederated with their allies *not* for the purpose of imposing particular dynasties or forms of government upon other states, but to prevent the subversion of their own liberties, and to secure a succession established by the free voice of the people in opposition to the doctrines of legitimacy! These were the objects of our predecessors in the Treaties which have been referred to on this occasion;—this is the principle of foreign interference which has been sanctioned by their authority, and which the noble Lord, in his short-lived triumph, has cited in justification of our present conduct towards France.

"Looking back to the repeated declarations of the Allies, but more particularly to those of the British Government, the question is, whether, after those declarations in the face of Europe,

this Country can, with any regard to consistency, restore the Bourbons in opposition to the known and expressed wishes of the French people?' To those who had not witnessed the acts of the British Cabinet, and who had only referred to its professions, it would seem strange that at this day such a discussion should be necessary. During the whole course of the war, Ministers asserted (with what sincerity is now obvious) that its object was not to replace a particular family on the throne of France. Every insinuation to the contrary was repelled with indignation. What was the answer returned to the lamented Member for Bedford (never more to be lamented than at the present moment), when he demanded of the noble Lord whether the proclamation of the Duke of Wellington, professing that the object of renewed hostilities was to restore the House of Bourbon, had the sanction of Ministers? What, I ask, was the reply given to my lamented Friend? Why, that the very supposition was a calumny upon the character of Government, whose only object, as it had all along professed, was to remove the individual who had placed himself at the head of the French nation, and whose authority was inconsistent with the peace and safety of Europe. The Declaration of the Prince Regent, on ratifying the Treaty of the 25th of March, was exactly to the same effect. His Royal Highness stated, that 'the Treaty was not to be considered as

binding His Britannic Majesty to prosecute the war with a view of imposing upon France any particular government.'"

Lord Castlereagh. "Will the honourable and learned Member read the passage immediately succeeding?"

Sir Samuel Romilly. "Willingly.—The Declaration then goes on to state, that, 'however solicitous the Prince Regent must be to see His Most Christian Majesty restored, and however anxious he is to contribute, in conjunction with his allies, to so auspicious an event, he nevertheless deems himself called upon to make this declaration, on the exchange of ratifications, as well in consideration of what is due to His Most Christian Majesty's interests in France, as in conformity to the principles upon which the British Government has invariably regulated its conduct.' —Does the noble Lord mean to assert that the latter part of this Declaration has been designedly framed to render nugatory every thing that preceded it? What must be the duplicity of the British Government, if such be the case? What will be the reproach which must attach to its character, if, whilst so solemnly asserting that the only object of the war was to remove Buonaparte, it shall, in truth, be found to have entertained the secret and resolved design of compelling the French nation to submit to the family of Bourbon?

"The Declaration of the Prince Regent was

followed by the letter of Lord Clancarty, of the 6th of May, to which I referred on the first day of this session. Buonaparte, on his arrival at Paris, had written a letter to the Prince Regent, offering to abide by the stipulations of the Treaty of Paris, which letter was transmitted to Lord Clancarty, to be laid by him before the assembled Sovereigns at Vienna. The result of their deliberations, as communicated by his Lordship, was consistent with the previous declarations of our own Government. 'After reading this paper,' said Lord Clancarty, 'the general opinion appeared to be, that no answer should be returned, and no notice whatever taken of the proposal. But one opinion has appeared to direct the councils of the several Sovereigns. They adhere, and from the commencement have never ceased to adhere, to their Declaration of the 13th of March, with respect to the actual Ruler of France. They are in a state of hostility with him and his adherents, not from choice, but from necessity; because, past experience has shown, that no faith will be kept by him, and that no reliance can be placed on the professions of one who has hitherto no longer regarded the most solemn compacts, than as it may have suited his own convenience to observe them.' His Lordship afterwards goes on to state—'They are at war, then, for the purpose of obtaining some security for their own independence, and for the reconquest of that peace and permanent tran-

quillity for which the world has so long panted. They are not even at war for the greater or less proportion of security which France can afford them, but because France, under its present Chief, is unable to afford them any security whatever. *In this war, they do not desire to interfere with any legitimate right of the French people; they have no desire to oppose the claim of that nation to choose its own form of government, or intention to trench in any respect upon its independence as a great and free people.*' Then follows the passage which the noble Lord has charged we with omitting—'They no otherwise seek to influence the proceedings of the French in the choice of this or any other dynasty or form of government than may be essential to the safety and permanent tranquility of the rest of Europe; such reasonable security being afforded by France in this respect, as other states have a legitimate right to claim in their own defence.'

"Such, Sir, was the communication made by Lord Clancarty. I do not affect to be so well acquainted as the noble Lord (whose abilities in that way are universally acknowledged) with the mysteries of diplomatic language; but it seems to me that, in ordinary acceptation, these words are incapable of any double sense. The whole letter is a disclaimer of war for the restoration of the Bourbons, professing it to be undertaken against Buonaparte alone, on the ground that his former

character was such as to preclude all reliance upon his good faith. The right of the French people to choose their own governor and government is distinctly admitted.—How the noble Lord will reconcile these contradictions between profession and practice, is as mysterious as the language of Lord Clancarty, if it can be made to bear a double construction. The effect of these declarations in France, was to lull the people into a supposed security, and to prevent that resistance which might have been made even after the battle of Waterloo. The assemblies in Paris deemed it useless to make exertions for their independence which they did not believe to be in danger, and many were as anxious to remove Buonaparte, as they would have been (had they anticipated the event) to exclude a Bourbon from the throne. Without doubt the noble Lord was aware of the effect which his soothing professions would have in putting an end to hostilities which might otherwise have been protracted, though with what success it is not necessary to determine. The forcible restoration of Louis the Eighteenth soon succeeded, for the King followed in the rear of the allied armies which possessed themselves of Paris, and prevented all possibility of a free choice on the part of the nation.

"Sir, it is a mockery to talk of a voluntary election under such circumstances of compulsion. Those who had fondly relied on the faith of the

Allies, not yet victorious, were now awakened from their delusion. The capital had submitted, and every promise of the conquerors was forgotten. Nor have the Members of the British Parliament,—those, at least, who, confiding in the solemn pledges of the noble Lord and his Colleagues, were induced to vote for the renewal of hostilities,—less reason to complain. What must be their feelings as they behold the disgrace which will attach to their Country in consequence of the duplicity and bad faith of those whom they have supported? What must be their indignation and regret in reflecting, that they themselves, by their credulity, have been made accessary to this disgrace? Sir, let me entreat the House to pause.—Before it concurs in this Address, let it reflect on the principle which it is about to establish—on the example which it will leave to other ages and to other nations. The time may come, when Russia, Prussia, and France, shall be confederated against England; when an English King is to be forced upon a people who have expelled him. The example which we sanction this night may then be followed by our enemies; and as we now maintain that the revolutionary politics of France are inconsistent with the safety of Europe, it may then be contended, that the principles of English constitutional liberty are equally dangerous to the power of Sovereigns and the obedience of subjects. Even at this day the freedom with which the

press of this country has arraigned the crimes and exposed the follies of Princes, pointing at them the finger of public scorn and contempt, has excited the indignation of foreign governments, and has made our newspapers the objects of jealousy and prohibition. They are accused of breaking in upon the sanctity of Sovereigns, and of making no distinction between the peasant and the prince. Who is able to determine how long the Sovereigns of Europe may permit this system to exist, or how long a period will elapse before they combine against England to crush this fearless independence? Surely there is nothing absurd in this prospect, when even the noble Lord has spoken of the dangers resulting from the promulgation of the principles of modern Whiggism;—and, repeating most probably the lesson which he has learnt in the well-disciplined school of the Continent,—has reprobated even the freedom with which debates are conducted in the British Parliament! If the noble Lord can be induced so severely to reprobate this liberty of speech and of the press, who can say how soon his efforts may not be aided from quarters with which he has been recently so much connected? Our army, too, it is to be recollected, on its return from France, will be well prepared to second his efforts, and to extinguish our liberties under the pretext of their deviating into licence.

"With regard to the securities, which are

said to have been obtained, for a lasting peace, I can by no means view them in the light which the noble Lord requires. To me they appear to be such as are rather calculated to defeat than to ensure the object. Their inevitable consequence will be to excite and keep alive the resentment of a whole nation. When the noble Lord speaks of the popularity of England in France, and of the general approbation of the measures of our Cabinet, it would have been as well if he had produced some evidence of his assertions. What he has said on the subject of contributions, is equally unsupported. It will be difficult to prove that the English is the only nation that feels taxation, and that the French will disregard it, even when enforced by a military power. The people of France must necessarily feel when they are called upon to pay taxes for the support of foreign soldiers, that they owe those taxes to the restoration of the King, and that this restoration has been effected by the English nation. With regard also to stripping the Louvre, independent of the injustice of the transaction, to me it appears, that but one opinion can exist as to its impolicy. It is impossible that such an act should fail to inflict a sense of disgrace upon the people of that country, and excite in their minds a spirit of resentment against those who have despoiled them of a collection, so much an object of their national pride. The honourable Gentlemen opposite

testify their surprise at the mention of the word injustice, as applied to this transaction; and, perhaps, I might have expressed my sentiments of it better, by saying, that I am far from being satisfied with the justice of the proceeding. It is said that these monuments of art are the fruits of unjust war;—but are they not also the subject of various treaties, by which they have been formally conceded to France?—When I hear so much of the fine 'moral lesson' which we have by these means taught that country, I cannot avoid recollecting some circumstances with regard to one of the principal actors in this spoliation:—I allude to Austria, and to her seizure of the Corinthian Horses. Austria restored to Venice her Horses, but *not* her Republic or her Independence! It is remarkable, too, that these Horses are conceded to France by the same Treaty (that of Campo Formio), by which Venice is transferred to the dominion of Austria.

"Sir, on this, and on many other topics connected with the proposed Address, I might yet enlarge; but I have already trespassed too long upon the attention of the House. Without going further into the merits of these questions, I shall give my vote for the Amendment, upon a firm belief that the Peace is utterly insecure, and that it will only last until France shall have acquired strength for resistance, when her hostility will burst out more rancorous and more fatal than

ever. I know that these opinions do not concur with those of a large majority of this House; but they are my honest persuasion, and I deem it therefore my duty to express them."

After a long debate the House divided, when the numbers were,

For the Amendment - - - - -	77
Against it - - - - - - - - -	240
Majority against the Amendment	163

The original Address was then put and agreed to.

INSOLVENT DEBTORS.

March 14th, 1816.

Mr. Lockhart moved for leave to bring in a Bill to suspend the power of His Majesty's Commissioner of the Court of Insolvent Debtors, to receive Petitions for the Discharge of Insolvents.

Sir Samuel Romilly. "However I may differ from the honourable and learned Gentleman in the opinions which I entertain on this subject, I do not rise to offer any opposition to his present motion. The question to which he has called the attention of the House, is one which demands its

most serious consideration. There can be no doubt but that the greatest frauds and abuses have taken place under the present Insolvent Act, and that the interposition of the Legislature is loudly called for to investigate and remove the causes of the evil. However correct in principle, that Act must be admitted, even by its authors, to have many defects. Still, I trust, that the House will not consent to repeal it altogether; or, at least, that it will not precipitate such a measure without further inquiry, and without substituting some remedy for those grievances which this law was intended to alleviate. Let the House recollect what was the state of the law before this Act passed:—unlimited imprisonment of the Debtor; condemnation for life to the physical and moral contagion of a gaol, and *this* frequently for failing to perform what misfortune had rendered impossible! It was in vain that the Creditor might feel disposed to relax. The law operated as an effectual restraint upon his humanity; for, to discharge the Debtor was to cancel the debt. It was only by the interposition of the Legislature for the purpose of relieving the overflowing prisons of the country; by some *ex post facto* law, annihilating all past engagements, and leading, by its abuses, to almost greater evils than those which it redressed, that the unfortunate Prisoner was at last restored to society.

"Is this a system to which this House ought

to return; or can the defects of the present Act, numerous as they may appear, be put in competition with the evils which existed under the old law? The course which I shall take the liberty of recommending to the House, as most conducive to the public interest on this occasion, will be, to appoint a Committee with powers to examine the different persons whom experience and inquiry may have made competent judges on the subject. Much useful information may be obtained, not only from the Commissioner of the Insolvent Court, but from the professional Gentlemen who have been in the habit of practising in it. By availing ourselves of these means, we shall be enabled fairly to estimate the merits or defects of this Act, and to apply such alterations as the case may seem to require. I have no doubt but that many of its Clauses have been found wholly inadequate to their desired end;—still I must again repeat my belief in the justice and propriety of the principle on which the Act is founded. There is nothing, I am persuaded, in the English character to render a *Cessio Bonorum* less applicable to this than to any other country.

"One of the greatest evils of which the public has a right to complain, is the difficulty of attaching the Debtor's estate. Let this, as far as it is practicable, be removed. Let an end be put to Sham Pleas, Writs of Error, and the various other artifices by which the fraudulent are now

enabled to evade or to defer the fulfilment of their engagements. Let property of every description be subjected to the debts of its owner.—This would be, indeed, affording a remedy to Creditors; this would indeed operate as an effectual control upon unprincipled Debtors. But where is the consistency of allowing the Creditor to keep his Debtor in gaol for not doing that which is perhaps impracticable, and yet forbid him to recover a debt, where there may be the most ample means for its discharge? I trust that this subject will now undergo the fullest inquiry; an inquiry as essential to the security of the Debtor as of the Creditor. Their interests indeed are the same, and ought never to be divided. What is for the advantage of the one, can never eventually be prejudicial to the other."

Sir Samuel Romilly concluded, by adverting to an opinion prevalent, that he had taken a part in framing the last Insolvent Act. This he disclaimed. He had never been consulted on the Bill, nor even seen it before its introduction into Parliament.

After a few words from the Attorney General, Mr. Brougham, &c. leave was given to Mr. Lockhart to bring in the proposed Bill. Sir Samuel Romilly then moved for a Select Committee to inquire into the effects produced by the Acts of the 54th Geo. III. c. 23, and of the 58th Geo. III. c. 102, for the Relief of Insolvent Debtors, and to

report their observations thereupon to the House. After some objections from Mr. Lockhart, the House divided:

For the Motion - - -	82
Against it - - - - -	71
Majority - - - - -	11

ALIEN BILL.

May 10th, 1816.

Lord Castlereagh moved the order of the day for the second reading of the Alien Bill. The Motion was supported by Mr. Addington, the Solicitor General, &c. Sir Samuel Romilly said, "Sir, I will not follow my learned Friend (the Solicitor General) through all the legal details into which he has diverged. I rise rather to bring back the debate to its proper channel,—to divert the discussion from topics, in which few but professional Members can join, to those broader and more liberal views of the subject, into which others are equally competent to enter. What, though the common law right of the Crown,—though some obsolete precedent, drawn from the oblivion

of ages, should be found to lend its sanction to the proposed measure, it will still remain for the Legislature to consider and determine how far its operation may be adapted to the present state and circumstances of Society! It is with the views and feelings of statesmen rather than of lawyers that we ought to come to the decision of this great question. In saying this, however, let me not be accused of shrinking from the discussion which has been challenged by my learned Friend. Let me not be supposed afraid to risque my opinion, as a lawyer, upon the subject;—humble and unimportant as it may be, I do not hesitate to avow it, as being in direct opposition to that of my learned Friend. It is my firm belief, that the King has not, and that he never had, the power which has been arrogated to him, of sending, by his prerogative, Aliens out of the country in time of peace. There is no authority for any such doctrine. The loose *dictum* of Blackstone, unsupported by reference or precedent (which he gives for almost every other proposition in his work), inconsistent with every acknowledged principle of English policy, and contradicted even by his own interpretations of Magna Charta, deserves not that name: much less the assertion of Sir Edward Northey,—the opinion of an Attorney General at the instance of a Secretary of State! This surely is no authority to influence the House on any point of constitutional law: if such were to be ad-

mitted, there is no doctrine, however dangerous, that may not without difficulty be supported by having access to the repositories of the Secretary of State and the Council Office."

The Solicitor General. "I quoted the opinion from print—from Mr. Chalmers's book."

Sir Samuel Romilly. "It is of little consequence whether my learned Friend or Mr. Chalmers has been at the pains of ransacking these Offices. The opinion, whoever may have the merit of having first discovered it, must have come from thence. With respect to Sir Edward Northey, he may, for any thing I know to the contrary, have been an excellent man, but there is nothing in his opinion, as an Attorney General, that ought to influence this House. I have never heard his name mentioned as one of much weight in the profession. I recollect, indeed, that he was Attorney General under several administrations, and that he is mentioned by Dean Swift, though not very respectfully; but among legal authorities I never recollect to have heard his name.

"But turning from such topics at the present moment, I would call on the House to consider what individuals will fall within the operation of this Bill. My learned Friend seems to have mistaken its objects and principle: he had supposed it to be framed for the sole purpose of excluding Foreigners from hereafter entering into this country without the permission of His Majesty's Govern-

ment. He describes it as a Bill to prevent Alien Enemies from coming amongst us under the mask of Alien Friends.—But the measure goes farther;—it extends not merely to persons hereafter coming into this country, but to 20,000 individuals already domiciled here; to individuals, who, in many cases, by long residence in this country, by having carried on business here, by having their property here, by having married into English families, and by having made England their country and their home, have become, as it were, a portion of ourselves. These, unless naturalized, are still Aliens in the interpretation of the Law, and will be exposed to all the severities of the present measure. I cannot better point out to the House the persons who will fall under the Act, than by mentioning the difficulties which His Majesty's Ministers throw in the way of all Bills of Naturalization. It is a standing order of the Lords (not certainly a very constitutional one) that no Naturalization Bill shall be read a second time in their House without a Certificate of the individual's character from the Secretary of State. This Certificate, however, is almost always refused by the Secretary of State; and that, for no other reason, than because persons naturalized are released from the operation of the Alien Bill, and the consequent control of Ministers!—An extraordinary case of this kind has lately come to my knowledge. It is the case of a native of Germany

who left his country at eleven years of age, and who has resided for more than half a century in England, where he is now possessed of considerable property. He was for many years engaged in the flax trade; and an Act passed in the reign of Charles II. for the encouragement of that manufacture, declares that persons so employed for three years, shall have all the privileges of natural-born subjects *. In these circumstances, a friend of his devised to him and another person real estates of the value of 260,000*l.* upon trust, to sell them and pay legacies and debts. He contracted to sell them, and then, for the first time, it was discovered that the Act of Charles II. had not so completely naturalized him, as to allow of his making the necessary title to the estates. He was, therefore, induced to apply to the Secretary of State for his Certificate, that an Act of Naturalization might be passed; but, although all these facts were stated in his Memorial; and although his application was supported by many Members of this House and most respectable Merchants, all giving him an unimpeachable character for loyalty and moral conduct, the Certificate was refused. I might specify many instances of a similar nature, though none perhaps equal in magnitude to this.

"Let not the House believe, that it is merely

* 15 Car. II. c. 15.

called on to vote against the introduction of too many foreigners into the country. This is a view of the subject which I particularly wish it to avoid. The return of Aliens made to Parliament is the best criterion for deciding the question. From this it appears, that the number of Aliens in the country during the war, amounted to about 18,000, and that at present they are under 23,000. It is impossible for the House to know the grounds on which the Bill stands, if the mere unsupported assertion of the noble Lord (Castlereagh), that he can state a much stronger case for the enactment of the measure now than in 1814, is at once to be credited. If there exists any such case, why has he not stated it? But the fact is, that in 1814 the number of Aliens was 21,616, and that it now amounts to 22,619, making an increase of *one thousand and three* souls, men, women, and children! This, without doubt, is a very strong case; or, to use the expression of the noble Lord, a much stronger case than in 1814! It is said, however, by a right honourable Gentleman opposite (Mr. Addington), that we are soon to have an increase of Aliens.—On what is this supposition founded? Do Ministers foresee any change in the state of Europe which will cause strangers to seek that liberty here of which they are bereaved at home? The right honourable Gentleman speaks mysteriously, and I trust he may be mistaken. The present Bill, however, is a preparation against

such an event—a preparation on the part of Government to exclude from our shores the desolate and the oppressed—perhaps to deliver over to dungeons and to death those, who relying on English policy, and English justice, shall flee to this country as to a place of refuge against the oppressor!

"Sir, the explanation which has been given in the case of the two Dutch merchants*, is not satisfactory. The right honourable Gentleman has admitted that the direction for sending them away came from the Foreign Office, and the noble Lord at the head of that department does not venture to deny that the interference on his part took place at the instance of a Foreign Minister! It is said, that this discretion has been exercised with mildness; as far as *numbers* go, the powers of the Act do not appear to have been abused. But whilst I give to Ministers the credit which their forbearance may have deserved, I would ask the House, what occasion exists for the renewal of a Bill, under which, from its first enactment in 1793 down to the present day, so few removals have taken place? Is it, that greater danger is to be apprehended by us, though

* This was a case mentioned by Mr. Baring on a former debate. It related to two Dutch merchants of the names of Baudet and Labouchere, who, having come over to this country on commercial purposes, were sent out of it by order of the Secretary of State, without notice or explanation.

at peace, than when the revolutionary frenzy of France was at its height?

"It was proved, satisfactorily proved, in one case, that Ministers had abused their power—I mean in the case of De Berenger: they seized his papers under the Alien Bill, and then gave them over to be used against him in a civil prosecution; though neither under the Alien Bill, nor by the common Law, had the Secretary of State any right whatever to seize his papers. It has been asserted, indeed, in this House, that, as he was charged with a misdemeanor, his papers might be seized; but the contrary has been solemnly decided in the case of Entick against Carrington. The admirable judgment of Lord Camden in this case has lately been published in the new edition of the State Trials*, a work edited with such judgment, learning, and industry, as to render it an invaluable addition to our stock of knowledge both in history and law.

"Sir, the papers of an Alien are his own, and are as sacred as those of a natural-born subject. What an engine of oppression would be put into the hands of Government if they were otherwise; if Ministers could not only send away Aliens, at the instance of a foreign power, but were permitted to seize and examine their papers! So little was it imagined, at the Peace of Amiens, that the King

* Howel's State Trials, vol. xix. p. 1030.

could send back foreigners to their own country (which is what Mr. Justice Blackstone asserts), that when by that Treaty it was stipulated, that persons charged with murder, forgery, and fraudulent bankruptcy, should be mutually delivered up, it was found necessary to have recourse to Parliament to enable the Crown to perform its stipulation. In the same manner, notwithstanding the height to which my learned Friend has endeavoured to exalt the Royal Prerogative on the present occasion, his colleagues have still deemed it expedient to call in the power of Parliament to the assistance of the Crown! Of the mischief, of the destruction which an Act like this may occasion to individuals, it is almost unnecessary to cite examples. In 1803, no less than seventeen hundred persons were ordered by His Majesty's Proclamation to quit this country, but being refused admission into France, were allowed to return to England, where they have since resided, and conducted themselves with the utmost propriety. What, however, would have been their fate, had they been received in France during the reign of terror—during the ferocious despotism of Robespierre? Can any one doubt, but that they would have been all consigned to the scaffold?—Sir, I am myself acquainted with a most worthy man, a teacher of languages in this country, who, on the misrepresentations of a rival teacher, was ordered to leave England. Fortunately he

found friends to vindicate his character, and to get the order for his removal recalled. But what would have been the situation of this poor man, had the order remained unannulled, — had he been exiled in his old age from a country where he had long resided, in respectability and comfort, to one in which he would have been a beggar and a stranger? Even these cases are sufficient to show the evils to which the Alien Act may lead, though its execution should be committed to the mildest hands.

" But there is a remedy, it has been said, against all these abuses, and that is, the power of appealing to the Privy Council. Here the accused will be heard in vindication of his conduct. Here he may refute the charges brought against him. But how is he to know those charges? And how is he to defend himself without such knowledge? A man, for example, may have been secretly charged with saying, that he wished the French success, or that he should be happy to see Buonaparte carried in triumph through the streets of London. Well! the accused is sent for, but is permitted neither to be heard by Counsel *, nor even to know the sum of his offence. 'If guilty, he may perhaps suspect the grounds of his accusation, and may be prepared, in some degree, to palliate his misconduct. But what is the situ-

* This was decided in the case of the Baron D'Imbert.

ation of the innocent, called on to defend himself against charges, to the very nature of which he may be altogether a stranger? Yet this is what is called a Power of Appeal*. Perhaps the individual may be ignorant of our language; and though he may find some of the Lords of the Privy Council who can speak French, he may possibly belong to a country, the language of which is unknown to all of them. Such a case requires no comment; it speaks for itself. Better would it be, that the Clause should be at once blotted out altogether, than be permitted to disgrace the Statute Book by its cruel mockery!

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* In a subsequent stage of the Bill, *Sir James Mackintosh* proposed a Clause allowing the Alien a summary of the matters alleged against him, and a reasonable time to prepare his defence; and making it lawful for him to summon and examine witnesses on oath before the Privy Council, and to be heard before them either by himself or Counsel.

Lord Castlereagh thought the proposed Clause would be equivalent to the repeal of the Alien Law, which was a matter of policy not to be executed according to judicial forms; and added, that it would be only giving the Alien an opportunity of reviling the Government, and putting Ministry on their trial!

Sir John Newport asked what sort of a law was that, which would be defeated by the most distant approach towards justice?

Sir Samuel Romilly animadverted, in terms of the keenest poignancy, upon the arguments of Lord Castlereagh.—The Clause was, however, lost, as well as another proposed by Lord Milton, to prevent the Act from extending to any alien woman married to a natural-born subject!—*Credite, Posteri!*

"Another injustice, of which this Act is guilty, is, that it establishes every man a foreigner, and throws the burden on him to prove that he is not so. This proof it is, in many cases, difficult to adduce. For instance, if a man has been naturalized by residing seven years in a British Plantation, or has been born abroad of British parents, how is he always to establish the fact? Even when a man is a native of this country, it is frequently a matter of difficulty to prove it. I am astonished that a provision like this, so repugnant to every principle of justice, should never even have been noticed by my honourable and learned Friend.

"An appeal has been made to the precedent, as it seems to be considered, of 1793. My learned Friend, assuming the policy and wisdom of an Alien Bill under the circumstances of that period, deprecates and condemns all opposition to the renewal of it now. Whether the situation of Europe in any degree justified that measure, it is at this moment unnecessary to inquire. But admitting, for the sake of the argument, that the premises of my learned Friend are correct, I may still be allowed to dissent from his conclusion. The necessity of an Alien Bill in 1793, however obvious, would afford no proof of the policy of such an Act in 1816. The circumstances distinguishing the two periods are altogether different; nor do I believe, that even Mr. Pitt, whatever were

the measures to which he resorted in the troubled days of the French Revolution, would have ventured to propose a measure like this in time of profound peace. Not so his disciples. They are awed by no such scruples or apprehensions. They at once rush in, where their mightier Master had not dared to tread.

" Sir, it was once the policy of this country to encourage foreigners. Every writer on the British Constitution has expatiated on the liberality of its Laws towards foreigners. Even in the dark ages of our history this wise policy prevailed. By a statute of the 27th of Edward the Third, Merchant Strangers and others were encouraged to visit this country. In the reign of Elizabeth, notwithstanding the peculiar circumstances of the times, and the bitter spirit of hostility between England and Spain, the same liberal policy continued to be evinced on the part of this country. Descending further towards our own times, we find an Act of Queen Anne (though not of long duration), which even naturalized all Protestant Strangers *.—Such was the policy of England in better times; such are the foundations on which she established the fabric of her power, and to which she has been indebted for uninterrupted ages of greatness and glory. The asylum which

* 7 Ann. c. 5, repealed by 10 Ann. c. 5, except in what relates to the children of English parents born abroad.

she so freely offered to the persecuted of all religions, was amply repaid by the accession of foreign skill and foreign capital to her own previous resources, and by the admiration and respect which her magnanimity never failed to extort even from the most hostile States. But this generous policy is to be from henceforward renounced. The principles of our fathers, their love of liberty, their sympathy with the oppressed, are all forgotten, and are superseded by a system, as injurious to the interests, as it is disgraceful to the character, of the country and age in which we live.

"Sir, in whatever point of view I consider this measure, whether as standing by itself, or as contrasted with the Alien Bills which have preceded it, I think it equally indefensible."

The House divided:

For the second reading - -	141
Against it - - - - - - -	47
Majority - - - - - - -	94

PERSECUTION OF THE PROTESTANTS IN FRANCE.

May 22d, 1816.

Sir Samuel Romilly.—" Sir, I rise to call the attention of the House to a subject which has made a deep impression in this country, although it has been but incidentally mentioned within these walls. I allude to the recent Persecutions of the Protestants in France. Every Gentleman, who hears me, must know, that in the last Autumn reports reached this country, of extreme acts of violence committed in the southern Departments of France. These reports created a strong sensation in England. Meetings were held; Resolutions were adopted; and a Subscription for the relief of the sufferers was entered into with that generosity which ever characterizes the British public, when they see occasion for their benevolent interposition. On a sudden, however, an extraordinary turn was given to the popular feeling. Although the meetings which I have described had not taken place without a previous communication with His Majesty's Ministers, yet the latter subsequently affected to think them improper, and evinced a disposition which, I regret to say, has proved successful, to damp the ardour of the public mind on

the subject. A letter was written by the Duke of Wellington, denying the truth of the statements which had been made, and expressive of His Grace's conviction of the favourable sentiments of the King of France towards the Protestants. The effect of this letter was very great, and, in alluding to it in this House, a noble Lord went so far as to taunt those who had previously mentioned the subject, and to express his hope, that it would be a lesson to them not to take up similar questions on such light grounds. The city of London too, having thought proper to present an Address to the Prince Regent on the occasion, were received very graciously by His Royal Highness, but were given to understand, that although His Royal Highness was perfectly ready to interpose his good offices in favour of the Protestants on a proper occasion, yet that this was not a time in which his interference was at all called for.

"In bringing forward this question at the present moment, I have no intention of accusing His Majesty's Ministers of criminality. I cannot think so ill of them as to believe, that, if they knew what had really taken place, or in what manner the French Government had conducted itself, they would, from any desire of supporting that Government, have misrepresented the facts. All that I complain of is, that they have been too credulous, and that they have listened with too little suspicion to the assurances of the French Govern-

ment on the subject.—To the consideration of this question I bring no party feeling. It becomes me to state fairly, and without exaggeration, the facts which, after much anxious inquiry both by letter and in person, have come to my knowledge with respect to it. I may be mistaken; I may have been misinformed; and I shall be extremely glad to have it proved to me, that the alleged crimes have not been committed. But, after having taken the utmost pains in the investigation, no doubt remains in my mind on the subject. Much has been said of the injury which the French Protestants may sustain from the interference of the British public in their behalf.—That the denial on the part of the British Authorities of the existence of the alleged outrages, has injured the Protestants I well know. The Duke of Wellington's letter was printed at Nismes, and scattered about that town with great activity by the Catholics. It has filled the Protestants with the utmost consternation, taking, as it does, from the oppressors, the only restraint to which they had until that period been subject, and from the oppressed their last hope and consolation. So far was the previous expression of British opinion from injuring the Protestants, that nothing had afforded them so much real relief.

"Sir, there are three questions for the House to consider: 1st, Whether the alleged outrages have really been committed? 2dly, Whether they

have proceeded from political or religious causes? and 3dly, Whether the French Government has afforded any protection to the sufferers? —It will be impossible to give the House an adequate idea of the character of the transactions which have taken place in the Department of the Gard, the chief seat of the persecution of the Protestants (for no general persecution has occurred, nor has any disposition been evinced towards it), without, in the first place, alluding to the condition of that part of France at the time of the restoration of the present King. The Department of the Gard and its neighbourhood were the parts of France, or rather of Europe, in which the doctrines of the Reformed Religion were first disseminated. The inhabitants of the Mountains of Cevennes, for a century before the time of Luther, were distinguished for the purity of their doctrines and the innocence of their lives. They remained unmolested in the enjoyment of their religious opinions until soon after the Reformation, when a persecution of them commenced. This was towards the end of the reign of Francis the First, when many villages in that Department were destroyed, and the inhabitants, men, women, and children, put to death. There, first appeared the bloody effects of that persecuting spirit which subsequently spread over France, and was exhibited in those various massacres so disgraceful to the character of that nation.

" After this, for a period, the Protestants in France enjoyed perfect liberty, during which they resorted in such numbers to Nismes, as to form a large proportion of the population of that place. In 1685, however, the revocation of the Edict of Nantes took place, through the superstition of Louis XIV. and the ambition of his Minister Louvois. Then too those Dragonades were invented, the mention of which must cause every one to shudder. Whole provinces were to be converted by regiments of dragoons, and the Minister dared to represent to his King, that he had effected an object most agreeable in the sight of God! The Protestants were proceeded against, not as Protestants, but as Heretics, or, as they were called, '*les nouveaux convertis.*'—What was their condition until 1787, only two years previous to the Revolution? If any persons were found attending Protestant service, they were sent to the galleys for life. The Minister was sentenced to death, and every one harbouring him, or facilitating his escape, was condemned to the galleys. The marriages of Protestants were declared illegal; their children were considered bastards, and might be taken away by the Government, to be educated in the Catholic religion. At seven years of age, a Protestant child was authorized to become a Catholic.

" It has been said by French Legislators, that, however severe these Laws might be in their en-

actments, they were comparatively mild in their administration. And what was the proof adduced of the leniency with which they were administered? That, in the period which elapsed from 1745 to 1770, only eight Protestant Ministers had been hanged; that only forty marriages had been annulled, the husbands sent to the galleys, and the wives to hospitals as common prostitutes!— Such was the state, such the administration, of the Laws respecting Protestants, until 1787, when Louis the Sixteenth softened, and undoubtedly would have repealed, them, but for the subsequent events which occurred to interrupt the accomplishment of his humane intentions. One of the first acts, however, of the Revolution was, to restore the Protestants to a perfect equality of privileges. They were declared admissible to all civil offices, without distinction; and one of their Ministers, Rabaut St. Etienne, was elected President of the National Assembly. The Protestants, with the feelings natural to men, could not but applaud and admire a work, which had raised them from the depths of degradation and misery to the state of free citizens, possessing equal laws and equal rights. This, however, has been urged against them as a matter of reproach. It has subjected them to the charge of being, in a peculiar degree, Revolutionists and Buonapartists. Undoubtedly they were generally attached to the Revolution; undoubtedly there were some amongst them, who, as

Members of the Convention, voted for the death of the King, though still with the recommendation of the *Appel au Peuple*, which, if not displaying due firmness, at least discovered their wish to save the Monarch. In the subsequent scenes of the Revolution, when liberty had degenerated into licentiousness, and when tyranny and persecution had usurped the places of justice and mercy, not one Protestant was found to be an actor. There was not a single Protestant a Member of the Revolutionary Tribunal for the Department of the Gard; whilst of the 130 persons who were guillotined by its orders at Nismes, more than 100 were Protestants, though the Protestants only formed about one third of the population. When I thus speak of the moderation and justice of the Protestants, I do it not with any invidious feeling towards the Catholics; I only state what is usually observed to be the case with respect to the moral conduct of a small Sect or Society when surrounded by a greater *.

"The Protestants being thus restored to the

* "A small Sect or Society amidst a greater, are commonly most regular in their morals; because they are more remarked, and the faults of individuals draw dishonour on the whole. The only exception to this rule is, when the superstition and prejudices of the large Society are so strong as to throw an infamy on the smaller Society, independent of their morals. For in that case, having no character to save or gain, they become careless of their behaviour, except among themselves."—Hume's Essay on National Characters, Note L.

rank of Citizens, all religious animosities seemed to subside in the south of France. In 1802 Buonaparte, then First Consul of France, procured the enactment of a Law, placing the Protestant on the same footing with the Catholic Faith, in point of establishment and privilege. Can it be a subject of reproach to them, that they were grateful for this favour? It is not possible but that they must have felt attachment to him for it, and hence it is deemed proper to stigmatize them as Buonapartists.

"Such was the state of things when, in April 1814, Louis XVIII. was restored. At that period Buonaparte had become as unpopular at Nismes as in every other part of France. The people were worn down by the Taxes and the Conscription. In the Department of the Gard, these were more severely felt, and I believe, notwithstanding all that has been said upon the subject, the joy manifested at Nismes was great and unanimous. The Protestants expressed their satisfaction with as much ardour and sincerity as the Catholics. Unfortunately, in the course of the ten months which elapsed before the occurrence of that unhappy event, which filled Europe with alarm, a considerable change of opinion had been created in the Protestant mind. There had returned to Nismes, in that interval, persons who had long been absent from that place, and who entertained a great jealousy of the Protestants. By the in-

terference of these individuals, a tendency was exhibited to return to the old system. The Protestants were insulted in the streets by the populace;—songs were sung in ridicule of them;—gibbets were drawn at their doors;—the Massacre of St. Bartholomew's day was adverted to, and the Agitators expressed the satisfaction which they should soon feel in washing their hands in Protestant blood;—the Protestants were threatened with extermination, and were told that there should be but one religion.—This was the situation of things when, in March 1815, Buonaparte suddenly reappeared in the south of France. On this occasion, the principal Protestants expressed the same zeal and determination as the Catholic subjects of Louis. A declaration was issued at Nismes on the 13th of March, signed by the municipal body and the most distinguished inhabitants (amongst whom were the Ministers and several of the Members of the Protestant Church), expressive of warm attachment to the King. Soon after this, the Duke d'Angouleme appeared amongst them; but the Protestants, it was alleged, did not join the Royal Army in the numbers it was expected they would do. It was true, they had not done so; nor will it appear surprising, when the treatment which they had experienced during the short reign of Louis is recollected.

"On the 3d of April, the authority of Buonaparte was proclaimed at Nismes;—on the 15th of

July, that of Louis XVIII. was re-established.—It has been represented, that during the reign of Buonaparte, from the 3d of April to the 15th of July, acts of the greatest violence had been committed by the Protestants towards the Catholics, and that every thing, which subsequently took place, was to be considered as mere acts of retaliation and revenge. The fact was, however, that no such acts of violence had been committed by the Protestants. Of this I have been assured on the best authority. During that period, the town had been under the command of a Catholic, General Gilly.—After the 15th of July, many of the Royalists from the Duke d'Angoulême's army, and from various adjoining places, flocked to Nismes. The garrison, consisting of 200 men, laid down their arms; but, shocking to relate, were, with a few exceptions, killed in cold blood. Now commenced the persecution of the Protestants. Their houses were pulled down; their furniture was burnt; the rich were laid under severe contributions, and the poor exposed to the utmost cruelties. The greater part of these unfortunate people were manufacturers. Their persecutors destroyed their looms and implements of industry, knowing that by such a proceeding they would totally deprive them of all means of subsistence. Houses and manufactories were totally destroyed; vineyards laid waste, and the vines torn up by the roots. Many females were

exposed in the street to every description of insult. —One woman, in particular, who was scourged in a most brutal manner, was known to be far advanced in pregnancy. The instruments which were used in this torture were not of the ordinary kind; small pieces of iron and small nails were fastened to the scourges by which these people were torn.

"Sir, I will not detain the House by going into all the particulars of these dreadful scenes. Thirty women were scourged, eight or nine of whom died in consequence. The statement which I have before made on this subject has surprised many who heard it; but, from every thing which has since come to my knowledge, I am confirmed in that statement. I am certain that I shall be within the real numbers when I assert, that in these dreadful scenes two hundred persons have been murdered, and nearly two thousand persecuted in their persons and property. Two hundred and fifty houses have been destroyed; and some of these outrages have been attended with circumstances so horrid, that it would appear almost incredible that they should be suffered to pass with impunity in any civilized country. An old unmarried man, named Lafond, who lived in retirement,—who had neither the inclination nor ability to engage in political plots or discussions,—whose only crimes were, that he professed the Reformed Religion, and was possessed of a few hun-

dred pounds, was singled out as one of the first victims. Trestaillon, accompanied by other ruffians, went to his house, forced open the street door, and entered his apartment, which was on an upper floor. They demanded the instant surrender of his money, and threatened him with immediate death on his refusing to become a Catholic. He offered them all the money he had in his house, if they would not murder him. To this they pretended to agree; but when they had obtained their booty, regardless of his cries and entreaties, they dragged him by his white locks to the landing-place, and precipitated him from the top of the balustrade. They thought he was dead, and left him; but, returning soon after, and finding him only stunned, they brought him to the door, and there, amidst the acclamations of the populace, literally cut him into pieces with axes and broad-swords. Out of a family of the name of Leblanc, consisting of eight persons, all residing in the same house, seven have been murdered by Trestaillon and his associates. Two of them, who made some resistance, they brought into the street, and cut to pieces on the threshold of their own habitation; the others they strangled. Five persons, of the family of Chivas, were immolated. One of these had been for some time confined to his room by sickness. Trestaillon went to his lodging, and finding his wife on the staircase, asked for her husband. Shuddering

at the sight of the murderer of her brethren, she hesitated what to answer. He saw her alarmed, and told her to fear nothing; he intended no harm. As he appeared without arms, she suffered him to enter the room of her husband. He found André Chivas in bed, and approaching his bedside, put several questions to him concerning his illness, with all the appearance of one interested in his welfare. Trestaillon then took him by the hand, and said, 'They have not treated your disease properly. I am the better Doctor, and will cure you immediately.' On this he pulled out a pistol from his pocket, and holding it to the head of Chivas, blew out his brains in the presence of his wife, who has since shared the same fate.

"Having mentioned the name of this monster Trestaillon, I cannot but remark to the House, that *he has never been brought to punishment!* He has been twice in custody; once he has been released. I know not whether he is still in custody; but I know that he has not since been brought to justice. This wretch, as it is reported, frequently boasted, in public, of the horrid outrages he had committed. He was a member of the Urban Guard, which is composed solely of Catholics, Protestants not being permitted to be enrolled with them. It is also worthy of notice, that by a subsequent Decree all arms have been taken away from those who do not belong to the National Guard, by which the Protestants are left

defenceless and exposed to the attacks of their enemies. One man, whose house had been entered and set on fire, was condemned to see the body of his daughter, who had died a short time before, dug up and thrown into the flames. Barbarous instances of this kind are too numerous to be repeated in detail to the House.

"It is to be recollected, that these murders and atrocities have not been perpetrated on men taken in arms,—they were committed in cold blood. It is not only necessary to see this, but it is necessary to inquire into the steps taken by the French Government to suppress or punish these outrages. In July 1815, Calvieres was the Prefect of the Gard, and he was succeeded by the Marquis d'Arbaud de Jonques, who is still the Prefect of that Department. Immediately after his appointment, he published a Proclamation, condemning in strong terms the violent outrages which had been committed. This gave offence to the enraged multitude, and the Marquis was every where received with marks of popular disapprobation. The people demanded and obtained the release of their Barabbas, Trestaillon. The Marquis went to the Duke d'Angouleme, and on his return became more mild in his measures, and was of course more a favourite with the people. He discontinued his severe Proclamations, and still holds his situation as Prefect.—I will now read to the House a few Extracts from the Proclamations pub-

lished at Nismes, and I will ask whether they tend to confirm what has been stated in the Letter of the Duke of Wellington,—that the French Government had taken every step to put an end to those outrages? It is known, that on the 21st of August the Electoral College was to meet. For a long time previous to this, the outrages against the Protestants had been going on; and it will be seen, from a Paper which I hold in my hand *(Le Journal Officiel du Gard,* of the 26th of August, which contains the official accounts of all that had passed from the 20th), what were the steps taken to secure the tranquillity of the city.—On the night of the 19th, several murders had been committed. Now what were the precautions used by the Mayor against the repetition of these scenes? In his Proclamation, preparing for the Feast of St. Louis, he gives strict orders that the streets shall be cleaned at a certain hour, and that no squibs or rockets shall be thrown! This was all the Mayor deemed necessary for the preservation of the peace! This was the manner in which he thought fit to employ the Police! But were there no troops to aid the Mayor and Prefect in supressing the outrages which afterwards burst forth?—The House will learn, from the same official authority to which I have already referred, that there were at that moment in Nismes twenty-four troops of Infantry and a regiment of Cavalry, in a very

efficient state as to arms and discipline. Yet with this force, to check disturbance, the horrid atrocities of the 20th were committed!

"Sir, there was another Proclamation of the Prefect after these murders had been perpetrated, and the House will perhaps learn with surprise the manner in which they were viewed. The Prefect says, in this Proclamation, that 'he had, on a former occasion, addressed the people; but that he had since learned, that several outrages had taken place. Last night (he adds) many murders were committed.' The Proclamation then goes on to state, 'that strict orders had been given to the troops to be on the alert to suppress such proceedings, taking care, however, at the same time to ascribe all that had happened to the machinations of unknown Agitators, who had caused the people to abuse their great love for the King.'—What would the House think of an English Magistrate, who, in his attempt to suppress such outrages as those I have described, should tell the people, who were guilty of most barbarous murders, that they had been deluded by their great love for the King? Such Magistrates and such conduct would be deservedly treated with indignation. But the Prefect told those unknown Agitators to tremble at the consequences of their actions. Why did he not offer rewards for the apprehension of the murderers?—No—but he told them to tremble—to tremble at the eloquence of the Prefect! The Pre-

fect also, as if to palliate the crimes which he condemned, stated, that similar crimes had been committed by those who favoured the Usurper before the restoration of the King; and he added, 'Do you also tremble, who were guilty of similar excesses during the short existence of that power' which has been blasted by Heaven, and which is detested by men.'—These are the means which have been resorted to in order to put a stop to crimes which could only be suppressed by the most active exertions, and by the most rigid justice!

"The National Guard, who, it is to be recollected, were all Catholics, continued at Nismes until the 24th of August. During this time, the murders of the Protestants continued, nor was tranquillity restored until the Austrian troops entered the place. Whilst they remained, all was tranquil; when they departed, the murders of the Protestants were once more renewed. After the National Guard had quitted Nismes, they were removed to the mountains of the Cevennes, where, under pretence of suppressing treasonable conspiracies against the Government, they exercised great cruelties on the unoffending mountaineers, by which several lives were lost. The Austrians at length arrived, and they were all disarmed. The Austrian troops, which entered Nismes on the 24th of August, remained there until the 15th of October. On the 16th, fresh murders were committed. Though Trestaillon had been arrested, and sent

out of the Department, yet there were not wanting others to emulate that monster in his crimes. Amongst these was one who assumed the name of Quatretaillon, and who particularly signalized himself by his cruel atrocities. This man had been arrested by General La Garde, and sent off to Marseilles; but he had never been punished,—at least his punishment was never heard of; and it is to be presumed, that if he had been punished, it would not have been kept a secret.—He had been suffered to pass with impunity, though there were hundreds who had been witnesses to his crimes. In fact, not one of the many who were implicated in these outrages has suffered!

"Another Proclamation was issued by the Prefect about the latter end of August, from which it would seem that he rather wished to excuse than to condemn what had passed. He seemed rather to think, that the scenes of outrage had continued too long, than to deprecate their first existence! He says, that, in the first moments after the restoration, their indignation against those who had been marked out by public opinion, was too inconsiderate not to be excused—'*Trop irreflechi pour n'être pas excusable.*' He remarks, that several houses had been destroyed, but he congratulates himself that the outrages had not been distinguished by a spirit of robbery—'*Le fureur populaire n'étoit pas avili par l'esprit de brigandage.*' After this, the Prefect published an

Order, that all those whom the fear of persecution had driven from Nismes, should return, and that they should be protected from further molestation. Many of them did so, relying on the promise held out to them; and even after this several murders were committed. When, in November, the Protestant churches were reopened, the popular indignation was again raised; the churches were attacked, and though no lives were lost, the populace triumphed, and the churches were closed.

"Sir, I shall next read for the House, the Proclamation by the King; and here, I cannot but regret, that His Majesty did not take some decisive steps at a much earlier period.—But no; the terrible scenes of the 20th of August had been passed over unnoticed, and it was not till November that this Proclamation appeared." [Here Sir Samuel Romilly read the Proclamation of the King which had been published in November.]

"Even this," he continued, "although it condemns the outrages which had taken place, is evidently tinged with a spirit not quite calculated to allay the hostile feelings towards the Protestants. It notices the attacks which had been made on some of the troops under the command of the Duke d'Angouleme, and observes, that the punishment of such crimes should be national.

"Sir, it is with extreme difficulty that the Protestants can make their grievances known. I found it difficult even to procure correct informa-

tion on the subject, and this difficulty had been created by the French Government, who proscribe the publication of every thing tending to throw a light upon the subject. A work of this kind having been published at Paris, was immediately suppressed by the police. No paragraphs which can make those grievances known are allowed to be inserted in any of the French papers. I was present, and, I believe, there are some Members now in this House, who were also present in the Chamber of Deputies in Paris, during the discussion of the Law for securing the liberty of the subject. On that occasion, M. D'Argenson, in the course of his speech, mentioned the sufferings of the Protestants in the South, when several Members rose, and in a tumultuous manner, called him to order. And yet, not six days previously to this, the streets of Nismes were streaming with the blood of murdered Protestants. Not long before this, the King's General had been wounded nearly to death in his endeavours to protect those Protestants from outrage. But with all these glaring facts, a Member was called to order for even alluding to these circumstances in the Chamber of Deputies! I mean not to say but that many reports about the Persecution of the Protestants may have been exaggerated; but in what I have stated there is no exaggeration. I rather suppress than give a full detail of the facts which have come to my knowledge: but I may still observe, that while

the Catholics have every opportunity of giving publicity to their statements, the suffering Protestant is constantly deprived of the advantage. An honourable Member who has just entered the House, was with me in the Chamber of Deputies when the circumstance to which I have alluded took place—"

Sir Gerrard Noel. "I rise to call the honourable Member to order. The House will act very unwisely, if it allows him to proceed with these details. He has been admitted into the Chamber of Deputies by courtesy, as an English Gentleman on his Travels, and he has no right to make use of what he then heard for the purpose of grounding an inquiry in the English House of Commons. It will be a great breach of confidence in the honourable and learned Gentleman, and is derogatory to the high character and dignity of this House."—[*Cries of Order, Order, and calls on Sir S. Romilly to proceed.*]

Sir Samuel Romilly. "Sir, I can easily satisfy the scruples of the honourable Baronet who has called me to order, by stating, that, far from being guilty of any breach of confidence, I have only referred to facts, which the French Government itself permitted to appear in every newspaper of the following day. I repeat, that there is no hesitation whatever on the part of that Government in publishing every thing against the Protestants. Every facility is allowed to the Catho-

lics for that purpose. As a further proof of this, I shall mention, that a sort of answer to the Proclamation of the King, was published in a Paris paper, the Quotidienne, by the four Deputies of the Gard; stating, that the disturbances to which the Proclamation of the King had referred, were nothing more than the inconsiderate intemperance of women and children! Thus it is that the complaints of the Protestants are frittered away, while they have no opportunities of making any reply. As I have mentioned the Law on the liberty of the subject in France, I cannot but observe, that it is, by no means, a dead letter; for that nearly 19,000 persons had been imprisoned by its operation.

"I would next call the attention of the House to a Proclamation which was published at Nismes, shortly after the assassination of General La Garde. In this, it is declared, that the laws had been enforced on those who disturbed the public tranquillity, and that they would continue to be enforced. It then goes on to notice the attempt on General La Garde, and after stating, that the offender must be known to the inhabitants, it offers a reward of 3000 francs for his apprehension, but it neither named nor described him, though it was impossible that his name should be unknown at the time. It was then, as it has been since, a matter of public notoriety. As for the Proclamation of the King, to which I have before al-

luded, it condemns the outrages committed, but orders no active measures to prevent their recurrence. It indeed orders that all who do not belong to the National Guard shall be disarmed, but that is only leaving the Protestants more exposed to the mercy of their enemies, as no Protestant is allowed to belong to that body. Another Proclamation was published in December, at Nismes: it was from the Prefect, and announced, that on the following Thursday the Protestant Churches would be reopened. It was also stated with satisfaction, that the Protestants would in a short time give up those Churches which had originally belonged to the Roman Catholics, and that they (the Protestants) would have Churches built for them on the outside of the city. By this very Proclamation, the prejudice of the people against the Catholics must have been heightened, as they saw that the Protestants were not deemed worthy to have Churches within the city. The Proclamation farther expressed a hope, that the city of Nismes would not in future be degraded in the eyes of Europe by the blind infatuation of women and children, thereby implying a belief, that the outrages which had been committed were only the work of women and children. On the 10th of January the King published another Proclamation, in which he observed, that the former Proclamation had met with the submission he had a right to expect. But what was that submission?

Had any of the murderers been brought to justice? Not one;—and yet it was stated that the former Proclamation had met submission, when one thing which it commanded was the punishment of the murderers. In this Proclamation the King commands the Prefect to thank the National Guard and the Inhabitants of Nismes for their adherence to his former one, when it was a known fact, that subsequently to that Proclamation, several Protestants had been murdered there.

"Since December last, I am happy to believe, that no crimes of a more ferocious nature have been committed. Protestants, however, still continue to be the subjects of insult and reproach: they are driven from the public walks; they are interrupted in their religious duties; they have a different measure of justice dealt out to them from that which is enjoyed by their Catholic fellow-citizens. Many of them have been sentenced to long imprisonment, sometimes even for life, under pretext of having uttered seditious expressions. If any person comes forward, and says, that he has heard a Protestant use such and such words, the Protestant is immediately thrown into Prison. There was a case in which two persons were accused of singing an improper song, and of assaulting a waiter; one of them was condemned to imprisonment for ten years, and the other for life! It exhibits a strange idea of justice, that all the crimes and atrocities which have been committed in

the Gard should pass unpunished, and that offences of so trivial a nature should be uniformly visited with such severity! It is impossible for me to say on what evidence these convictions took place; though it will not, surely, be very uncharitable to suppose, that those who had hearts to perpetrate the atrocities which I have described, are not likely to be very scrupulous as to the evidence they give against the Protestants. Sir, I repeat, that this is a strange picture of justice.—We behold the petty offender visited with the severest penalties of the Law, while the perpetrator of the most atrocious crimes—the murderer, not only remains unpunished, but is let loose to renew his practices with impunity, and to immolate new victims to his ferocious bigotry or revenge.

"Sir, I am not now inclined to move an immediate Address to the Crown, calling upon Government to interfere on this subject: I am desirous of first knowing what has taken place between His Majesty's Ministers and the Government of France respecting the excesses committed against the Protestants. I shall, therefore, move that an Address be presented to His Royal Highness the Prince Regent, praying that directions be given to His Majesty's Ministers to lay before this House Copies or Extracts of all communications which have passed between His Majesty's Government and the Government of France relative to the Protestants in the South of France. I

make this motion in no spirit of hostility to His Majesty's Ministers. I am glad to afford an opportunity to the noble Secretary of State to give to the House more detailed information and from more authentic sources than I can be supposed to possess. I have purposely avoided entering into details on this subject: I could give a long list of the names of Protestants murdered at Nismes, to not one of whom could it be imputed, that he had taken part with Buonaparte. It is incumbent on those Ministers, who, with the Duke of Wellington, has said that the French Government has taken all the measures in its power to prevent these atrocities, and to extend protection to all classes of its subjects, to show that this has been the case.

"Sir, if precedents are necessary now to justify the line of conduct which I wish the House to adopt, I need bring forward no other than that recent one which has reflected such honour on this country, I mean that unanimous expression of English feeling with respect to our fellow-creatures on the coast Africa; for I cannot think that they had stronger claims on us than our fellow-creatures in the south of France. The interference on that recent occasion would even serve to justify our conduct, if France were indifferent to us. But such is not the case, we have taken a great part in the restoration of the Bourbons. If the Protestants are disarmed, we have assisted in dis-

arming them. At the moment when these bloody scenes were acting in Languedoc, three Protestant armies might be said to occupy France. His Most Christian Majesty could not then look from the windows of his palace without seeing guns pointed against it, and matches ready to fire them off if necessary. This was the state of France at the time when all these bloody transactions were taking place. Our responsibility calls upon us, if we did not at the moment interpose our good offices, to do so now; for what is the situation in which they stand at this moment? The House well knows, that many parts of France are still in a state of trouble and disorder. Who can say, if the fears of those who call themselves the Loyalists, should be excited, what may be the situation of the Protestant inhabitants of Nismes, who are doomed to be now jostled as they walk along the streets by the murderers of their wives, their children, or their parents; threatening them with their looks, and exulting in their former successful villany? And what sort of blame will fall on us, having this responsibility, if we shall not ask protection for these unfortunate people?—Sir, I move that an humble Address be presented to His Royal Highness the Prince Regent, that he would be graciously pleased to give directions, that there be laid before this House, Copies or Extracts of all communications which have passed between His Majesty's Government and the Government of

France, relative to the Protestants in the southern departments of that kingdom."

The Motion was supported by Mr. Brougham and Mr. William Smith, and opposed by Lord Castlereagh and Lord Binning, who complained of the picture which had been drawn by Sir Samuel Romilly as too highly coloured, and as likely to injure the cause he was anxious to support. The dissensions between the Catholics and Protestants were mutual. They were partly of a religious, and partly of a political nature. The Catholics were the Royalists, and the Protestants the Buonapartists. The French Government had done every thing in its power to put a stop to the evils complained of, which, after all, were confined to a small part of France. Nothing was more to be deprecated than the interference of one government with the internal concerns of another. How would this country endure the interference of foreign powers with its own domestic policy? The House was bound to resist the Motion of the honourable and learned Gentleman, which, it was contended, would excite religious animosities, not only in France, but even in this country.

Sir Samuel Romilly began his reply by saying, that a most unwarrantable charge had been preferred against him by the noble Secretary of State. He was not conscious of having ever done or said any thing to give the noble Lord personal offence, or to provoke such aspersions on his motives and

actions, as, to his knowledge, had never been before applied to any individual in that House. Why then should the noble Lord feel disposed to offer him such deliberate, such designed injustice?—*(A cry of Order!)* Sir Samuel Romilly said that he was not aware of any departure from order, nor had he any inclination to offend the noble Lord; but he felt that he had a right to complain, when accused of exciting religious animosities, not only in France, but even in this Country. Such an imputation, he would venture to say, was wholly undeserved. There was not a man who could deprecate more strongly than he would a consequence so baneful.

"But I have been also accused" (he continued) "of exaggeration and high colouring, and of desiring this Country to interfere in a hostile manner with the proceedings of the French Government. The fallacy of the latter charge is obvious from the words of my Motion, which does not call for interference, but only for an account of any interference which may have already taken place. It is confessed, on the other side, that our Government has interfered, and my Motion only requires some account of the nature of that interference.—Sir, I trust that it is equally repugnant to my principles and my inclination to advise any plan of interference inconsistent with the amity now subsisting between this Country and France. I neither propose, nor wish, that our

Government should interpose by any other means than those of good offices and friendly recommendations; and, therefore, the observations which have been made by the noble Lords (Binning and Castlereagh) as to the use of force, are totally inapplicable. But by whom are these scruples and apprehensions so anxiously entertained? By whom is the danger of interference now so loudly deprecated? By the very persons who have pushed it farther in practice than was ever done by the boldest of their predecessors;—by the very men, who, after having involved England in a war for the avowed purpose of deposing the adopted ruler of the French people, now guarantee the throne to his successor in opposition to the national voice, with an army of one hundred and fifty thousand men!

"Sir, with respect to the charge of exaggeration, which has also been advanced against me by the noble Lord, I feel it to be equally unfounded. No statement made by me has been in any degree controverted. On the contrary, I might even cite the statements of the noble Secretary himself in confirmation of my own. The letter which he has read to the House supports my relation of the case. The printed Report also, which is now before him, presents details far more shocking than any thing which I have described. How then can I be accused of exaggeration or high colouring? I stated that a Protestant had been shot in his bed. Is not this an undoubted fact? Or was there any high colouring in my

statement of it? Could I state it more mildly than in the style of simple narrative?"

Sir Samuel Romilly then proceeded to show the injustice of which Lord Castlereagh had been guilty towards the Protestants by identifying them with the Buonapartists. If the persecution then proceeding in France, was,—as it had been asserted,—wholly of a political nature, it was strange, that it should have been confined to Protestants, and that it had not also extended to the Catholic supporters of Napoleon! The Letter which had been written by the Duke of Wellington, he considered as most unjustifiable, and as wholly unwarranted by the real facts of the case. The French Government had done little or nothing to suppress the outrages which had been perpetrated in the department of Garde, except in mere words. Notwithstanding all the crimes—notwithstanding the murders which were known to have been committed there, not a single individual had been brought to punishment. — Sir Samuel Romilly concluded by saying, that, whatever the event of his Motion might be in that House, he was satisfied that the discussion would be productive of advantage. It must always do good to disclose truth, and bring acts of oppression to light.

The question was then put and negatived*.

* It may not, perhaps, be uninteresting to see how Cromwell conducted himself under similar circumstances to those which occurred in the South of France. In 1655, the Duke of Savoy had

GAME LAWS.—Stat. 56 Geo. III. C. 130.

February 12th, 1817.

Sir Samuel Romilly.—"I rise, in pursuance of the notice which I have given, to move for the repeal of an Act which has been only seven months in existence. It is an Act, which was hurried through this House, amidst a multiplicity of other public business, having been read a third time at one o'clock in the morning; and which, after passing the House of Lords with equal precipitancy, received the Royal assent at the very close of the last Session. Although

published an edict, commanding his reformed subjects in the vallies of Piedmont to embrace Popery, or renounce their country. Those who neglected to obey this edict, were either cruelly massacred or compelled to seek refuge in the mountains. No sooner did Cromwell hear of this persecution, than he promoted a subscription for the immediate relief of the surviving sufferers,—remonstrated with their oppressor, and by his repeated applications interested every Christian state in their favour. The consequence of this generous interposition was the revocation of the barbarous edict, and the reinstatement of the remaining Piedmontois in their cottages, and the peaceable exercise of their religion. The letters written on this occasion in Cromwell's name, are to be found in the prose works of Milton; and for the English spirit which they breathe, might be read, without disservice, by many of our modern statesmen. The massacre in Piedmont is also the subject of Milton's Eighteenth Sonnet, "Avenge, O Lord, thy slaughter'd saints," &c.

relating to a subject which requires no inconsiderable degree of care and deliberation, its progress through Parliament was altogether unnoticed. No discussion took place upon its merits;—nay, to a great majority of the Members of this House, I believe, its very existence was unknown. Sir, the Act to which I refer, is the 56th Geo. III. c. 130, which was passed by the Legislature for the protection of Game, and which for its extreme rigour is, I believe, without example in the laws of any country. It puts not only the actual, but even the meditated, destruction of Game upon a footing with Felony. It enacts, that, any person found in any forest, chase, wood, plantation, or other open or enclosed ground in the night-time,—not merely with a gun, but with a net, or any other instrument for taking or killing Game,—shall be liable to the penalty of transportation for seven years, at the discretion of the Magistrates assembled at the Quarter Sessions.

"The Game Laws of this country have been long a subject of complaint. Their evil influence is confined to no rank or condition of life, but operates with equal mischief, on the lowest and the highest *. At the same time, I am by no

* Sir Samuel Romilly, on a subsequent occasion, repeated the same observation, which he illustrated, by alluding to the vindictive and selfish feelings, which are so frequently generated on

means insensible to the sad effects of poaching,—to the idle and profligate habits which it seldom fails to produce. The frequent acts of rapine and atrocity, which have been committed, of late years, by persons pursuing this lawless occupation, are notorious; but is it by means like these —by indiscriminate and unmeasured severity, that the evil will be repressed? No; such punishments tend only to defeat the object for which they are enacted, by rendering offenders more desperate, and by turning public opinion rather against the law than against the offence.

"But the present Act is not less striking for its inconsistency than for its rigour. So different is the object professed in its preamble from that which seems to be aimed at in its subsequent enactments, that it is difficult to suppose, that they were intended to form parts of the same Bill. The object of its authors, as to be collected from the preamble, was to suppress illegal combinations of armed persons, going out by night to commit acts of violence; but the effect of the measure is to transport any individual who may be found destroying, or attempting to destroy, a

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this subject, and which lead Gentlemen to treat the lives of their fellow-creatures as of trifling estimation, in comparison with the preservation of a hare or a partridge. The practice of placing spring guns and other engines of death or bodily harm in grounds and preserves, he particularly reprobated as equally cruel and illegal.

hare or partridge. The preamble of the Act recites, that idle and disorderly persons are in the habit of going out to poach at night with arms, and are thus trained up to felony and even to murder; but its provisions are made to extend equally to those who go out unarmed, and who are merely found abroad at night with nets, wires, or any instruments for the destruction of Game. That this latter offence should be, if possible, repressed, no one can for a moment doubt,—that it even calls for severe punishment,—but *not* for the extraordinary penalty prescribed by this Statute, —*not* for transportation. Such a penalty, such unjustifiable and indiscriminate severity, cannot but defeat the very object of its enactment. It tends only, I repeat, to make the offender more desperate and more ferocious. He will perceive no distinctions or degrees of guilt, where the law has recognised no distinctions or degrees of punishment; he will proceed on his nightly depredations, armed and prepared, at all hazards, to resist apprehension.

"It is far from being my wish unnecessarily to represent the Game Laws in an odious point of view; but I must remind the House, that there is an obvious distinction between them and other penal laws. The latter are equally made for the protection of the rich and the poor. Not so the former: they have been most exclusively framed for the pleasures of the rich. This consideration

alone ought to make the House extremely cautious; this alone should operate as a reason to deter us from investing the Game Laws with any unnecessary and extraordinary severity.

"Having noticed the penalties contained in this Act, let us next see the cases to which they are applicable. Let us see how it has defined the period of night, at which it is made thus penal to be abroad in pursuit of Game. Now, the night of these wise legislators extends, from eight in the evening, to seven o'clock in the morning, from the first of October to the first of March. I have heard much of the omnipotence of Parliament, but I never understood that it could change day into night. Yet every Gentleman must be aware, that the sun is up at a quarter past six in the month of October, and consequently three quarters of an hour earlier than these legislators will allow it to be day! This definition subjects almost every qualified man in the country to the operation of the Act. The sportsman (who is generally an early riser), if found abroad in search of Game before seven o'clock, will become liable to transportation.

"But to whom is the execution of the law, on this occasion,—to whom is this large and discretionary power of infliction, committed? To the county Magistrates,—to a body of men, highly respectable, but who, from their peculiar habits, and personal feelings on every thing re-

lating to Game, are, perhaps, less fitted than any other to be impartial and unprejudiced judges in cases of this description. The discretion is even too large to be intrusted to the Judges of the land. It is, in the clearest sense, improper at any time to give a Judge too much power, and I cannot certainly help lamenting that any penal laws should exist, which are not intended to be put into execution. In the discussions on this measure, however, I trust that I shall not (indeed, I know not how I can) be charged with any desire to innovate on the penal code, or to contemn the wisdom of our ancestors. There is, for once at least, no room for those bugbears, which have been so anxiously conjured up on every former occasion, when I proposed any alteration in the law. On the contrary, this Act ought, in common consistency, to be viewed by my usual opponents as an innovation,—as the fruit, not of ancient wisdom, but of wisdom only seven months old. That such an innovation should have passed this House is, indeed, to be accounted for, not only by the late period of the Session, but by the late hour at night, and the fatiguing multiplicity of business, with which the attention of the few remaining Members had been exhausted, when the measure was introduced. The quiet manner in which it passed the House of Lords is more astonishing,—especially when we recollect the scrupulous anxiety always manifested by that

body to prevent any innovation on the Penal Laws. I remember an Act of Elizabeth, dooming to the gallows all soldiers and sailors found wandering without a testimonial or pass from a Justice of the Peace *. It had attracted the notice of Mr. Justice Blackstone, who justly stigmatized it as a disgrace to the Statute Book. Viewing it in the same light, I introduced into Parliament a Bill for its repeal, and was for once successful. It passed both Houses, though not without experiencing one alteration in the House of Lords. The preamble, as it passed the Commons, had stated it to be '*highly* expedient to repeal' the Act, &c. &c. The Lords expunged the word 'highly,' as, however expedient they might deem it to repeal an Act for hanging soldiers and sailors, they could tolerate no expression tending, in the remotest degree, to impugn the wisdom of its venerable authors. I must lament that they did not exercise the same extraordinary jealousy in the present case, than which a more flagrant innovation on English Law had been scarcely ever submitted to the consideration of Parliament."

Sir Samuel Romilly concluded, by moving for leave to bring in a Bill, to repeal the law above mentioned, which was granted.

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* 39th Eliz. c. 17.

HABEAS CORPUS SUSPENSION BILL.

February 26th, 1817.

Lord Castlereagh moved the Order of the Day for the first reading of the Habeas Corpus Suspension Bill. The Motion was opposed by Mr. Bennett, Mr. J. H. Smyth, Lord Althorpe, &c. and supported by Mr. F. Lewis, the Lord Advocate of Scotland, Mr. C. Wynn, &c.

Sir Samuel Romilly.—" Sir, however unwilling to occupy the attention of the House, I cannot consent to give a silent vote on the most important question which has been ever discussed since I had a seat in Parliament. In whatever view we may contemplate the proposed measure, whether in relation to its immediate effects on the liberties of the people, or as a precedent for the conduct of future Ministers and future Parliaments, it is a subject which deserves the maturest deliberation. On the inestimable value of that part of the constitution which it tends to annul, there can be but one sentiment. It will be for the House to inquire, whether there exists any thing in the present state of the country,—whether the causes of alarm are so serious, and so imminent, as to demand nothing less than this fatal sacrifice. That evils exist,—that poverty and discontent have

been followed by partial outrages and disorder, few will be disposed to deny. But does the Statute Book afford no remedy,—or, supposing some extraordinary measure to be necessary, is the remedy now proposed, adapted to the nature of the disease?

"Sir, to justify the present application, it is incumbent on those who make it, to show that the ordinary means have been duly tried, and that those means have failed of success. The noble Lord, indeed, has spoken of the extraordinary vigilance of Government, but where is the evidence of it? In what does this boasted vigilance consist,—to what does it amount?—It amounts, in truth, to nothing! The noble Lord's own statement sufficiently disproves the claim, which has been made on the part of himself and colleagues on this occasion. He has told us that traitorous designs had been long proceeding,—that for a considerable time before the aid of Parliament was required, the most insidious attempts had been made upon the loyalty, the morals, and the religion of the people, by the industrious circulation of seditious and blasphemous publications, and yet (though Ministers so boldly assert these facts,—though they even profess to have been long apprized of their existence), up to the present moment not a single prosecution has been instituted against their authors! How then can it be said, in the language of the Report, that 'the

utmost vigilance of Government, under the existing laws, has been found inadequate to the danger?' Far be it from me to condemn lenity on the part of those invested with power; far be it from me to urge extreme rigour in the execution of laws; though I do contend that the existing laws should at least have been tried, before the Legislature was called upon to enact new.

"But the excuse of the Attorney General for this procrastination is the most extraordinary. He says, that the libels which have been laid before him were so numerous, that he really could not see where the prosecutions were to end! Where they were to end, Sir, I do not pretend to decide; though it could not surely have been so difficult to determine, where they ought to have begun. The libels may have been numerous, though certainly nothing was publicly known of them until very lately. The more numerous, however, the more urgent the necessity of proceeding against some of their authors, as a terror and an example to the rest. Sir, the present case has been assimilated to that of 1794. But what were the circumstances attending the suspension of the Habeas Corpus Act at that time? What was the conduct of Government on that occasion? The Ministers of that day, whatever else may be imputed to them, were at least guiltless of bearing the sword in vain. They resorted not to Parliament for new powers until they had en-

forced the old. Prosecutions for sedition had been instituted at the different Assizes and Quarter Sessions in every corner of the kingdom. Not that I would be supposed to hold up this conduct on the part of Government to the imitation of their successors. The error was then on the side of rigour. The laws were too severely enforced. Though examples might in some cases have been necessary, the indiscriminate and sweeping punishments awarded against every petty offender can be vindicated on no principles of justice or sound policy. I am surprised to observe the smile of contempt on the face of the Hon. and learned Gentleman (the Attorney General), intended as it is to deride the censure of conduct so opposite to that which he has thought fit to pursue. He is, however, mistaken, if he imagines that I have contrasted the different proceedings of His Majesty's Law Officers at the two periods, for the purpose of passing judgment either on the one or the other. My object has been rather to show the extreme variance between them, and that Ministers (even if we admit their representations, as to the disordered and alarming state of the country, to be substantially correct) are not justified by the precedent to which they so triumphantly appeal, in imposing new restraints upon the liberty of the subject, until they have proved the inefficacy of those already in existence.

"Sir, the learned Lord Advocate of Scotland,

to the surprise and dismay of his surrounding friends, has produced an oath, said to have been taken by some deluded persons at Glasgow. But were not Ministers long ago acquainted with the circumstance? Or did they imagine that the Legislature had overlooked the offence?—Is it possible that they were ignorant of the penalty attached to it? That it is felony without the benefit of clergy, unless the individual, taking the oath, within fourteen days afterwards, abandons his associates and betrays their purposes? What more does the learned Lord require than the severest punishment which is known to the laws of this kingdom?

"As to the question, whether or not the proposed remedy is adapted to the nature of the evil, there is no one who pretends that it is so, except the honourable Member who spoke last (Mr. C. Wynn). He has, indeed, contended, that as sufficient evidence cannot be procured to convict, it is, therefore, proper to give Ministers unlimited power to imprison! As the delinquent cannot be brought to trial, he is to be punished without it! On the contrary, Sir, I contend, that this measure is in no way calculated to meet the evil. Who are the fomenters of these troubles? Who are the redoubted chiefs in these scenes of mischief, whose arrest is at once to check the progress of disaffection and defeat the operations of the minor agents? Are they persons of leading influence or talent? No; they are all alike in-

significant,—objects rather of pity and contempt, than of public jealousy and alarm. According to the account of Ministers, the real evil exists in the extent to which the infection has spread and is spreading,—in the intricate ramifications through which the poison is conveyed to the public mind. Will the imprisonment therefore of ten or twenty poor wretches prevent its diffusion? If, indeed, two or three were publicly tried, regularly convicted, and exemplarily punished, something probably might be gained; others might be deterred, for the fact would be known; but the mere unheard-of confinement of a few mechanics will effect nothing in a case of active mischief like that which has been described.

"Sir, on every former occasion when this Act has been suspended, the state of things was widely different from the present. There existed at least enough to warrant the apprehensions, even in the opinions of those who thought it their duty to oppose the measures of Ministers. The country was in a state of actual war, or actual rebellion, or both. Such was the case in 1794, in 1798, and in 1801. External danger was aggravated by internal co-operation. The fears of an invasion from France were heightened by the rage of disaffection in England and of open rebellion in Ireland. Whatever difference of opinion might prevail in Parliament, as to the remedy, no one denied either the existence or the extent of the

evil. No petitions were then presented, humbly praying that Parliament would reform itself. The avowed object of the disaffected was not to reform, but to supersede Parliament, and to substitute in its stead a National Assembly like that of France, which boasted of its active correspondence with this country. Such, Sir, was the state of the country at the periods to which I have been alluding,—periods in which some Gentlemen have affected to discern so striking a similitude to the present.

"Sir, much as I must reprobate the adoption of such a measure, at the present moment, I am not one of those who think that the Habeas Corpus Act ought never to be suspended. Under certain circumstances it may be just and necessary. Such were the circumstances which more than once occurred within the first sixty years after the Revolution, when there was a Pretender to the Throne; when persons of the highest rank and authority were in active league and correspondence with the enemy, and were endeavouring to expose their country to the united horrors of foreign invasion and civil war. The arrest of the leaders was, in such cases, necessary, as it paralysed the traitorous designs of all their dependents. But is there any such necessity at the present moment? Where can Ministers find one man of influence or consequence among the disaffected of our day? Where can they find even a

man of the middle rank of life among the ignorant and deluded wretches against whom Ministers are about to launch their vengeance? How then can this Suspension be useful; unless, indeed, our Government shall follow the example of one which it has recently supported against the avowed wishes of the people, where not merely obnoxious individuals, but the inhabitants of whole villages and towns, have been thrown into dungeons?—Is not this, I confidently demand, a powerful reason for refusing what is now required? Will the House intrust Ministers with a power by which persons of low rank and obscure occupations will be placed, in shoals, at the mercy of every truckling Informer?—Sir, the noble Lord (Castlereagh) on a former evening thought proper to advert to the names of individuals in higher stations, who have been placed by these infatuated Reformers upon what they term the Committee of Safety or Conservative Body. But because misguided and illiterate men have had the audacity, without the slightest authority, to place upon this list persons of undoubted loyalty and elevated rank, does it afford such a presumption of guilt as to justify the bold declaration of the noble Lord, that in the eyes of God and man they are answerable for all the consequences of rebellion? Undoubtedly the names of those most respectable persons are found there on account of the

general sentiments they are known to entertain on public affairs. But is this an argument (as it has been advanced by the noble Lord and the Right Hon. Gentleman who spoke after him), is this an argument against the support of popular doctrines? Is every one who presumes to argue in favour of Parliamentary Reform, the liberty of the Press, or any other topic displeasing to those in power, to be included in the dreadful denunciation of the noble Lord? Sir, I am not fond at any time of making personal allusions, and I am the more unwilling to make them now on account of the unusual soreness which has been shown by the noble Lord on certain topics this night; but I cannot help observing, that there was a period, even in his life, when he might have had the misfortune to fall under his own denunciation, and to be included in the list of a Committee of Safety! The liberality of the noble Lord's former opinions, and the pledges of championship in the cause of Parliamentary Reform, given by him at an early period of his political life, before he entered into office, or was transplanted into any of the hotbeds or nurseries for young Statesmen*, might have rendered even him responsible in the

* See Mr. Canning's Speech in the Debate on Sir M. W. Ridley's Motion, for reducing the number of the Lords of the Admiralty.

eyes of God and man for the consequences of disaffection and rebellion*!

"Sir, reverting once more to the question more immediately before us, I implore the House not to withdraw from the lower classes a protection to which they are as much entitled as the most exalted individuals in the State. It is impossible to calculate on the abuses to which a measure like this may be subject; it is impossible to foresee the misery and ruin which it may be the means of occasioning, even to the most innocent individuals; and yet, AT THE EXPIRATION OF THE PROPOSED ACT, MINISTERS WILL ONLY HAVE TO COME DOWN TO THE HOUSE WITH A BILL OF INDEMNITY, AND THEIR RESPONSIBILITY WILL BE AT AN END!—Sir, our ancestors never consented to the Suspension of the Habeas Corpus Act but in cases of extreme danger. The proposal therefore of such a measure now is the more alarming on account of the precedent which it will establish. It is now for the *first* time laid down, that under any circumstances of alarm the Rights

* At the commencement of the election for the county of Down, in June 1790, Lord Castlereagh (then the Hon. Robert Stewart) subscribed a TEST, pledging himself, amongst other things, to be governed by the instructions of his Constituents, and to promote, with all his abilities and influence, both in and out of Parliament, the success of a Bill for amending the representation of the people.

of Englishmen are to be dispensed with! In the years 1767 and 1768, when, according to the Letters of Dr. Franklin, great distress, unusual scarcity, and alarming riots prevailed, no person ever dreamt of suspending the Habeas Corpus Act. Now, however, in time of profound peace, it is contended, that the race of Englishmen have become so degenerate as to be incapable of their own protection; now, their weakness and pusillanimity are such, that they are willing to make a voluntary sacrifice of their liberties, and to surrender their dearest rights into the hands of Ministers! True it is, that dangers threaten the country; but, IS THERE NO DANGER IN EMPOWERING A FEW INDIVIDUALS TO IMPRISON ALL THE REST OF THEIR FELLOW-CITIZENS, AND THAT TOO, WITHOUT THE SLIGHTEST RESPONSIBILITY? Is there no danger in this Suspension at a period like the present, when the standing army is so overgrown, and when the Government already possesses a more extended and uncontrolled influence than has been ever before enjoyed in any former age? Is there no danger even to general liberty, when foreign States, already sufficiently disposed to check its growth, shall see this once free country placed under the absolute dominion of its Ministers, on account of the absurd schemes of a few miserable Spenceans? Is there no danger in public opinion, and that even to Ministers themselves? Are they well assured that, this

measure will have, in truth, the effect of strengthening their weak hands? Will not the people see through the artifice of those, who, under the pretence of public security, are only endeavouring to aggrandize or to secure themselves? Sir, in every point of view I consider this measure objectionable. The dangers may be great, but the existing laws have not yet been tried; and if tried, they will be found sufficient for every purpose of national protection."

The House divided:

Ayes - - - - -	273
Noes - - - - -	98
Majority - - -	175

The Bill was then read for the first time *.

* In a subsequent stage of the Bill, on the Motion of Sir Samuel Romilly an amendment was made, limiting its operation, in Scotland as well as in England, to persons committed to prison for Treason or suspicion of Treason upon a warrant signed *by six Privy Counsellors, or one of the principal Secretaries of State.* As the Bill stood originally, it extended to all persons in the former country committed *by any subordinate Magistrate.*

MR. HORNER.

March 3rd, 1817.

On a Motion made by Lord Morpeth, that "the Speaker do issue his writ, for the election of a Member to serve in Parliament for the Borough of St. Mawes, in the room of the late Francis Horner, Esq.,"—Sir Samuel Romilly rose and spoke to the following effect. "Sir, the long and most intimate friendship which I have enjoyed with the honourable Member whose loss the House has to deplore, will, I hope, entitle me to the melancholy satisfaction of saying a few words on this distressing occasion. It is only, however, as a *public* man that I shall now speak of him. Though no man better knew, or more highly estimated, the *private* virtues of Mr. Horner than I did, I am not sure that I should be able to utter all I feel on that subject.

"Sir, of all the estimable qualities which distinguished his character, I consider as the most valuable, that INDEPENDENCE of mind, which in him was so remarkable. It was from this feeling, and from a just sense of its importance, that, at the same time that he was storing his mind with the most various knowledge on all subjects connected with our internal economy and foreign

politics, and that he was taking a conspicuous and most successful part in all the great questions, on which it was his duty, as a Legislator, to form or to express an opinion, he laboriously devoted himself to all the painful duties of his profession. Though his success at the Bar was not at all adequate to his merits, he yet steadily persevered in his labours, and seemed to consider it as essential to his independence, that he should look forward to his profession alone, for the honours and emoluments to which his extraordinary talents gave him so just a claim.

"In the course of the last twelve years the nation has lost many of its brightest ornaments, —many of its greatest men. But those eminent men, to whom I allude, had arrived at the summit of their fame,—at the full maturity of their extensive powers and endowments. We knew, when they were taken from us, the whole extent of the loss we had sustained. Not so with our present loss. No one can recollect—how, in every year since my lamented Friend first took a part in the debates of this House, his talents have been improving,—his faculties expanding,—and his eloquence rising with the importance of the subjects on which it has been employed,—how, in every succeeding Session he has spoken with still increasing weight, and authority, and effect, and has called forth new resources of his enlightened and comprehensive mind,—no one can recollect

these things, and not be led to conjecture, that, notwithstanding the great excellence which he had attained,—still, if he had been longer spared, he would have displayed powers, not yet discovered to the House, and of which, perhaps, he was himself unconscious.

"But I should very ill express what I feel upon this occasion, were I to consider the extraordinary qualities which Mr. Horner possessed, apart from the ends and objects to which they were directed. THE GREATEST ELOQUENCE IS IN ITSELF BUT AN OBJECT OF VAIN AND TRANSIENT ADMIRATION. IT IS ONLY WHEN ENNOBLED BY THE USES TO WHICH IT IS APPLIED,—WHEN DIRECTED TO GREAT AND VIRTUOUS ENDS,—TO THE PROTECTION OF THE OPPRESSED,—TO THE ENFRANCHISEMENT OF THE ENSLAVED,—TO THE EXTENSION OF KNOWLEDGE,—TO DISPELLING THE CLOUDS OF IGNORANCE AND SUPERSTITION,—TO THE ADVANCEMENT OF THE BEST INTERESTS OF THE COUNTRY, AND TO ENLARGING THE SPHERE OF HUMAN HAPPINESS,—THAT IT BECOMES A NATIONAL BENEFIT AND A PUBLIC BLESSING.—It is because the powerful talents of which we are now deprived, have been uniformly exerted in the pursuit and promotion of such objects, that I consider our loss, as one of the greatest, which in the present state of the country, we could possibly have sustained."

SEDITIOUS MEETINGS BILL.

March 14th, 1817.

The Solictor General moved the third reading of the Seditious Meetings Bill.

Sir Samuel Romilly rose to oppose it,—and after a few preliminary observations on the impropriety of hurrying so important a measure through Parliament in the absence of so many of its Members, proceeded to the following effect.

"I have always considered the Meetings of the people as one of the most important parts of the Constitution. It is to the exercise, Sir, of this privilege, or rather right of the people,—it is to the unrestrained expression of public opinion on public men and public measures, that Englishmen are in a great degree indebted for that high feeling and manly character which have distinguished them from almost every other nation;—it is to this, that the Government and Constitution of the Country are no less indebted for that affectionate zeal and attachment with which the people have been accustomed to regard them. Restrain this privilege, and you at once weaken or destroy a source of that glorious freedom,—of that high spirit,—and of that just reverence for the laws and institutions

of their country, which have ever been amongst the noblest characteristics of Englishmen.

"Need I adduce, at this day, any proofs of the good which the public voice is able to accomplish? Look at the Property Tax. What, I ask, but the expression of public opinion at public meetings, has prevented that most oppressive and vexatious imposition from being superadded to our present great and almost intolerable burdens? Look again at the Slave Trade. What has constrained the King of France to abandon that cruel and unholy traffic? It was the expression of popular opinion. Let the glorious circumstance never be forgotten. It was the expression of popular opinion, not by the representatives of the people in this House, but by the people themselves, out of doors, which thus compelled the French Government to renounce the Slave Trade; —which thus extended the laws of humanity and justice to the farthest quarters of the globe.

"Sir, with respect to the public meetings which have been recently convened for the discussion of political subjects, there seems to exist no ground whatever for the imputations which are cast upon them in the present Bill. Instead of tumult and disorder, these assemblies are remarkable for the peace and regularity with which they have been conducted. To ascertain this fact, there is no occasion to resort to the reports of secret Committees, or to conclusions drawn from secret

evidence. The House has the same means of judging as any Committee. The proceedings of these meetings are all public. The speeches, resolutions, and all that passes at them, are matters of public notoriety; they appear in the public journals, and are circulated through every part of the country. Every Member, therefore, has an opportunity of ascertaining the truth or inaccuracy of my statement. It is true that discontent will exist among the poorer classes, whenever they are pressed by any severe distress. A disposition to tumult also may be excited by hunger no less than by misled religious enthusiasm. But though the present distress exceeds all bounds, —though in many instances it has driven the sufferers to the commission of felonies and other breaches of the law, yet at none of the public meetings, in any part of the kingdom, with the solitary exception of Spa Fields, has any disturbance arisen. Whether this is one of the happy consequences of that general diffusion of knowledge which now prevails, or of some other cause, it is at present unnecessary to decide; but the fact is, that at no former period have public meetings been conducted with so much order and deliberation.

"With the occurrences, Sir, in Spa Fields to which I have alluded, the House is well acquainted, and has seen them, I trust, in their proper light. On the dispersion of the first Meeting, se-

veral acts of violence were committed. They were such, however, as often occur in a great Metropolis, and do not appear to have been at all connected with the objects of the Meeting. At the second Meeting, the outrages were undoubtedly of a more serious nature. But let the House recollect all that transpired before the tribunal where these acts were investigated. From this, and from every other source of information on the subject, it certainly appears that there were persons at the Meeting, who wished to excite disorder, and who calculated on the co-operation of the people assembled, in their intended violation of the public peace. This is evident, but it is also no less evident that they were deceived in their calculations. So falsely, indeed, had they reasoned,—so ill had they reckoned,—that notwithstanding the general distress and consequent discontent which prevailed, — notwithstanding the excitements to outrage held out,—though banners were displayed and leaders offered to a starving multitude,—yet,—such was the general discretion and peaceable disposition of the Meeting,—that, with all their efforts, these promoters of tumult could only inveigle a few miserable wretches to follow them, and in vain attempted any thing like a general insurrection.

"I do not mean to say that the Meetings on these occasions were harmless, or that no restraints ought to be laid upon such assemblies.

On the contrary, I think that obscure persons should not be permitted to call Meetings at their own pleasure, and to adjourn them from time to time, to the terror of all peaceably disposed persons, for the mere chance of what may result from them. If the present Bill had for its object a regulation on these points alone,—if it went to preclude all Meetings, unless called for by a requisition of seven or even a greater number of householders,—if it rendered illegal all assemblies convened for *undefined* purposes,—or prevented those frequent adjournments, by which a few ignorant and unknown individuals are enabled to form themselves into something like a permanent body, sitting in judgment on their fellow-subjects,—if the present Bill was confined to such objects, in place of opposing I should be most anxious to give it all the support in my power.—But what is the proposed measure to effect? Instead of calming, it seems devised for no other purpose than to provoke and inflame the public mind. Its object is not to prevent, but to punish. Though a Meeting should be called for purposes the most illegal,—though it should appear, from the very terms of the notice in which it is called, to be so intended, the Magistrates are not previously to interfere. No—they are to suffer the people to assemble,—they are to let the work of mischief commence,—and then,—they or any one of them may order the Meeting to dis-

perse, under penalty of death, to every individual who shall be found disobeying the proclamation for the space of one hour!

"Such, Sir, is the clause of this Act which applies to the unlawful assemblies of the people. With respect to Meetings lawfully convened, and for lawful purposes, but where something supposed to be illegal may arise in the course of the proceedings, the Act is still worse. The very power of deliberation will then be made to depend on the individual discretion of every single Magistrate. Any one Justice of the Peace attending at a public Meeting is authorized by this Act, to arrest any person maintaining any proposition tending, in his opinion, to bring the Government into contempt, or to alter any thing by law established;—he may even, according to a learned Serjeant (Best), order into custody any one whom he believes to have an intention of that nature; and should the offender, or expected offender—perhaps some inflamed and misguided individual,—offer any resistance—[LORD CASTLEREAGH. 'Not *individual* resistance.' SIR SAMUEL ROMILLY. 'Yes—individual resistance, according to the words of the Act']—he may command the assembly to disperse, and may commit all those, who do not, within the space of one hour, obey his proclamation, for a capital offence. This, Sir, I maintain, is a cold deliberate cruelty. Better would it be at once to declare that there shall be no Meetings

whatever, than thus to expose them to the caprice of any officious or servile Magistrate; better to forbid all public deliberation and complaint, than to mock the people with so dangerous a semblance of freedom,—than thus to permit them to assemble, and, after they are heated past the power of reflection, to consign them for the folly or crime of, perhaps, a single individual, to the hazard of ignominious and cruel deaths. I beseech the House to pause;—I beseech it to consider the dangerous nature of the power now proposed to be conferred upon the Magistrates, and how liable it will be to abuse *. Has the House yet looked forward to the probable consequences of its rigour, or can it for a moment imagine that the distress and discontent which now unhappily pervade the country, will be removed or pacified by this system of terror and coercion? Will the people respect or confide in those, who, whilst

* Suppose, for instance (as Sir Samuel Romilly observed, on a former reading of the Bill), at an assembly legally convened, any one should state that it was a mockery on the Constitution, for Old Sarum to return as many Representatives as the City of Westminster or the County of York,—and that the Representation of Scotland was no less a mockery.—Some Justice of the Peace might think such expressions seditious, and calculated to bring our establishments into contempt. The consequence in all probability would be the arrest of the individual, and the dispersion of the Meeting!—*Parliamentary Debates, March* 10, 1817.

punishing their disorders, refuse even to inquire into the provocations of them, — who eagerly seize on every pretext to suspend or diminish their rights, but are deaf to their complaints, and pass over their Petitions—to the Order of the Day!

"But a noble Lord (Castlereagh) has told us that there is nothing new in the present Bill,—that it only confirms the acknowledged law of the land. If, therefore, this is the law,—if Magistrates already possess in such cases the powers of arrest now asserted to belong to them; why is this Bill to be thus hurried through the House? Even according to the noble Lord's own arguments it is unnecessary.—But I believe the noble Lord to be mistaken in his view of the law.—I know that in 1795, when a temporary measure,—the very model of the present, was first introduced into Parliament, no such idea prevailed among the exalted individuals who bore a part in the Debate on either side of the House. It never occurred either to Mr. Pitt or to Mr. Fox, to the Master of the Rolls or to Mr. Erskine, to consider the proposed measure in the light of a declaratory law. However it might have been attempted to be justified by some, it was deemed an innovation by all. It called forth the most anxious discussion, and was far, very far from being regarded with the apathy which seems to attend its revival at the present moment.

"Nor is the language of this Bill less extraor-

dinary than its substance. There is one clause, which, for the curious mode in which it is framed, may be considered a masterpiece of legislation. 'Every Justice of the Peace (it says) is hereby authorized and empowered to do all such acts, as he is hereby empowered to do, or as he is otherwise by law, entitled to do,'—or, in other words, that he has power to do what he has power to do! —It is no excuse to say, that the same clause constituted part of a former Bill;—it will be no justification for any mischief arising from such indefinite language, that the same want of precision existed in an Act passed twenty years ago!

"It is not, however, on this ground, nor from any doubts on my part as to the real objects of the Bill, that I must refuse it my support. Its framers have taken care to be sufficiently explicit with regard to the line of conduct which they would encourage Magistrates to pursue.—But it has been said, that this Act rests upon constitutional foundations,—that it has been copied from the Riot Act,—which Act is now held up as established and constitutional law! It is perhaps possible, though I think exceedingly improbable, that that Act has produced good effects. The offence against which it was directed might have been as effectually suppressed under the ancient law. The Riot Act, however, differs materially from the present measure, as it extends only to those, who have been already criminal,—who,

after an actual breach of the peace, are still riotously assembled.—The Solicitor General states, that the Riot Act has been found particularly useful, inasmuch as no person has been ever executed under it. But has it answered the object of its enactment? Has it prevented riots? Quite the contrary. We have seen, since the passing of that Act, and as if in defiance of it,—the most dangerous riots that have existed since the time of Charles the First. In the year 1780, the Riot Act was not even read,—not from any apathy on the part of the Magistrates, but because it would have been in vain to attempt it. The terror of the Act was absolutely null. Indeed, for the most part, the people never know whether the Proclamation is read or not, the reader being inaudible in the tumult, whenever the reading is rendered necessary; so that any established signal which could speak to the eyes, would be in all cases more effectual.

"Again, in 1793, the riots at Birmingham lasted a fortnight or three weeks, in defiance of this Act. The most atrocious outrages were committed without compunction or restraint. The Riot Act was then of no more avail, than it had been in 1780. What, therefore, does my learned Friend (the Solicitor General) mean by saying, that the Riot Act has been exceedingly useful, inasmuch as no person has been executed under it? Would he wish us from hence to infer that the Act has been

the means of preventing executions? That it has succeeded in the timely prevention or suppression of riots? That it has obviated the occurrence of outrage, and the consequent necessity of punishment? This, my learned Friend must be aware, has been notoriously not the case.

"But whatever may be our opinions on the efficacy or inefficacy,—on the policy or impolicy of the Riot Act, it is certainly no authority for inflicting so severe and cruel a punishment on parties engaged in popular assemblies as is now proposed. Against such penalties, indeed, in either case I shall never cease to protest. They are disproportioned to the offences, and therefore inadequate to their proposed ends. That the punishment prescribed in the present Bill will, from its severity, render the measure in a great degree inoperative, I have no doubt; and this is the only consideration which can in any way reconcile me to its enactments. Unless we can alter the nature of man; unless prosecutors shall arise, more ferocious than any that have ever yet existed, and juries shall be constituted very differently from what they are at present, the punishments now menaced can never be carried into execution.

"As far as the Spenceans are concerned, the Bill must be all in vain. Every order of society has an equal interest in the security and inequality of property. However some may par-

tially and for a time be blinded to the knowledge of this incontrovertible truth, by ignorant and presumptuous enthusiasts, the certainty of it must, in the long run, be brought home to their convictions. But they can only be taught this by the force of reason. Education will enable them to distinguish between the productions of enlightened men, and the unmeaning nonsense with which it is sometimes attempted to mislead their understandings. Every other effort must be vain. To diffuse truth, or repress error, by force, is no more practicable than to take a besieged town with syllogisms.

"Before I conclude, let me once more entreat this House to pause in its career; let me conjure it,—in the language of a noble Lord (William Russell) whose ancestors have acquired immortal glory by the exertions and fortitude which they have displayed in defending the Constitution of their country,—to consider whether we have not parted with enough of our liberties already. Never surely was there a time when those liberties were more valuable or more necessary. After all the horrors of a protracted war;—after the lives we have spent,—the treasures we have exhausted,—the sufferings we have endured;—after having attained, as it is said, every object of our ambition, we find, in the very beginning of this glorious peace, our manufacturers starving,—our agriculture depressed, and our revenue unequal to our expendi-

ture. We have seen that security of our personal freedom, the Habeas Corpus, suspended;—we have forfeited our ancient character for hospitality by a Peace-Alien Bill, which subjects every foreigner who may visit this country from motives of traffic or curiosity, to the caprice of a few individuals; and, lastly, to crown the whole, we are called on to suppress the meetings of the people, and to deny to their sufferings even the consolation of complaint."

The House divided, when the numbers were:

For the third reading -	179
Against it - - - - - -	44
Majority - - - - - -	135

WELSH JUDGES.

March 18th, 1817.

Mr. Calcraft moved for a writ for the election of a new Member to serve in Parliament for the borough of Bridport, in the room of Mr. Serjeant Best, who had accepted the office of one of the Justices of the Great Sessions of Wales.

Sir Samuel Romilly took that opportunity of calling the attention of the House to the distinc-

tion made between English and Welsh Judges, with regard to their capacity of sitting in Parliament. The constituents of the learned Gentleman himself had nothing to complain of, as it remained for them to determine whether their representative was as likely to be attentive to their interests after, as before, his acceptance of that office.

But the point was of great constitutional importance. He had never been able to understand at what period this difference between English and Welsh Judges originated, nor how such an irregularity could ever have been allowed by the Constitution. The latter had duties equally arduous, although not so frequently exercised, as those of the former. They had to sit in judgment in cases affecting the property, reputation, and lives of His Majesty's subjects. The due exercise of their functions required the same general qualifications,—the same impartiality of character, and the same abstinence from party conflicts. The fact, however, unfortunately was, that these offices were considered not professional, but political, and were, he had reason to believe, not in the gift of the Lord Chancellor, but of the first Lord of the Treasury. [*Some signs of dissent were exhibited on the opposite side.*] He spoke from a recollection of information communicated to him many years ago on the expression of his surprise at some

former appointments; and was inclined to think it was correct.

These observations were evidently not directed against the recent appointment of the learned Serjeant, whose great practice and long experience fully qualified him, in those respects, for the situation. The House, however, he thought, was bound to take into its consideration the propriety of suffering any man to unite in himself the characters of a Member of Parliament and of a Judge. In point of practical consequence, it was undeniable, that those Hon. Members always placed implicit confidence in the Ministers of the Crown. He had heard, he regretted to say, of many visionary projects of Parliamentary Reform. He was sorry that such ideas should be entertained, as they were calculated to injure the cause of real Reform. Of practical and temperate Reform he had always been, both before and since he entered that House, a sincere advocate; nor did he know of any surer step towards it, nor one calculated to give more general satisfaction, than to render ineligible all those persons, whose offices necessarily made them dependent on the Ministers of the Crown, and more especially those who held judicial appointments.

LOTTERIES.

March 18th, 1817.

MR. Lyttelton brought forward his Motion for the suppression of State Lotteries.

The Chancellor of the Exchequer defended Lotteries on the ground of State necessity. Alluding to the petition of the City of London against them, he observed, that the scruples of that body were of a very late date. It was not many years since they had procured an Act of Parliament for effecting some improvements by means of a Lottery. The practical question for the House to consider, was, whether a Revenue of £500,000 a year,—a Revenue voluntarily paid, could be given up without any proposed substitute.

Sir Samuel Romilly said, he should have been better pleased, if, instead of ridiculing the altered opinions of the City of London on the subject of Lotteries, the Chancellor of the Exchequer had changed his own. All that had been said in support of the system, was, that we could not afford to relinquish such a source of Revenue; but still less could we afford to relinquish the morals and honest industry of the people. Let the profits of the Lottery be placed against the losses of

the Revenue occasioned by the deterioration of the public habits, and by the numbers that are added to the enormous amount of the Poor Rates, and who, instead of a benefit, become a burden to the community.

His Right Hon. Friend had spoken of gaming, as a natural appetite, which, unless allowed to gratify itself on State Lotteries, would resort to other and more destructive modes of enjoyment. Now he (Sir Samuel Romilly) considered it as an unnatural and artificial habit, which if not absolutely created, was, at least, greatly encouraged by Government.

The evils spread through every village in the country, where persons were employed in posting up bills to attract poor miserable creatures, and inflame them with the hopes of sudden wealth. He could wish the Report of 1808 had been reprinted. The facts proved to the Committee, showed that bakers, butchers, and others found their trades diminish during the Lottery, while that of the pawnbrokers increased. Women were allured to spend the hard earnings of industrious husbands, and to pawn their clothes, and those of their children. Some of the witnesses spoke strongly of the heart-breaking scenes of misery they had seen,—of the total loss of all domestic comforts,—of families converted from sociality into strife,—of husbands driven to despair, and running away and leaving their families on the

parish,—of numbers, through this fatal propensity, being driven to suicide and madness. The Ordinary of Newgate stated, that, by the confessions of individual criminals, a large proportion of them traced their ill fate to practices in the Lottery. Merchants' clerks, and young men of decent habits, were seduced frequently into acts of dishonesty, and ruined by it. It was not enough to ascribe the evils to the former insurances; they still continued, from the temptation and seductions, to buy shares.

The nature of these allurements might be seen in the advertisements in the newspapers, which contained the strongest moral poison, and the most diabolical arts to seduce even boys. Part of some of these he read. Under the title of "Christmas-boxes," one of them stated, that a careful lad had not spent his money in amusements, but ventured in the Lottery by buying two sixteenths; that thereby he got a capital prize, and had become an opulent merchant in London.—Another said, that a poor public-house lad had gained £1200, and was living in retirement; and that now £2800 might be acquired for a similar chance.—Another stated, that a milkwoman had come in for a little of the cream of the Lottery by a sixteenth share of a prize of £20,000.—Another scheme was addressed to the soldiers, respecting a supplementary Lottery; and they were told, that officers had got £2500, and

£3000; and privates £600.—The Chancellor of the Exchequer might laugh at all this, and treat the opinions of others contemptuously. Knowing the private virtues of that Right Hon. Gentleman, he must say, that his conduct excited his astonishment. He could not exactly tell what to make of the seeming incongruity of the Right Hon. Gentleman's appearance; on one day, taking the lead in a Bible Society, and on another, meeting a set of Lottery contractors. The matter seemed unaccountable. He wished the Right Hon. Gentleman to listen to what he said. It would be good for persons holding high stations, which gave them so much influence over the condition of their fellow-creatures, to see personally the miseries of others. Let the Right Hon. Gentleman enter the Poor Houses, the Mad Houses, and the Prisons, and how many diseased, squalid, and unfortunate wretches would he find, who owed their misery to the temptations of Lotteries! Many, after spending all they had of their own, and all they could borrow, became at last victims to public justice. These results were proved. Could the Right Hon. Gentleman see these things, it was not in his nature to persevere.

It was to be hoped the House would redeem its character. The restrictions on the Lottery were quite insufficient. It was easy to understand that there might exist great evils which could not be suppressed. In natural vices we

could only correct, but in the Lottery we created the vice. The evil was said to be diminished, though he (Sir S. R.) thought it was increased, or if it should appear less this year, it arose only, he believed, from the want of means in the public. He should not, however, be surprised if the Lottery trade increased; for distressed persons were led to sacrifice what remained to them by vain hopes. He could have nothing new to offer in objection to Lotteries; the evils were well known; and he could only repeat objections formerly stated. He trusted his Hon. Friend would persevere. If he did not, he (Sir S. R.) would; and the Chancellor of the Exchequer should hear all the objections re-stated, whenever he proposed a measure so injurious to the best interests of the country.

The House divided:

For the Motion -	26
Against it - - -	73
Majority - - -	47

STATE OF THE REPRESENTATION.

May 20th, 1817.

Sir Francis Burdett moved for a select Committee to inquire into the Representation of the country. He was supported by Mr. Brand, Lord Cochrane, Mr. Curwen, Sir Samuel Romilly, and Mr. Tierney, and opposed by Sir John Nicholl, Mr. J. W. Ward, Mr. Lamb, and Lord Milton. Sir Samuel Romilly (who rose after Mr. J. W. Ward) spoke to the following effect.

"Mr. Speaker, although I present myself to the House immediately after my Hon. Friend, I can assure you, that it is with no intention of following him through all the topics of his eloquent and elaborate speech. It is evident from many of them, that he had anticipated a course altogether different from that which the Debate has taken, and that he had come prepared to answer arguments which, to his disappointment, no one on this side of the House has thought of advancing. On some of these topics, however, if I possessed one faculty in as eminent a degree as my Hon. Friend appears to possess it,—that of *memory*,—I might give him a complete answer, in language and in eloquence, not inferior to what we have heard this night. I should only have to

repeat the Speeches which my Hon. Friend has himself delivered in this House, in the course of the war,—more particularly his memorable speeches on the Walcheren Expedition and the Spanish Campaign,—where he censures, in the strongest terms, the blunders and misconduct of those very Ministers whom he now so indiscriminately extols.

"Sir, my Hon. Friend has thought proper to enliven his speech, this evening, with quotations from a book which has recently appeared on the subject of Parliamentary Reform *,—a book, indeed, which he says that he has not read, and which he seems to have referred to for no other reason than because it condemns the conduct both of Whigs and Tories. The justice of this indiscriminate censure, no one, certainly, is better qualified to appreciate than the Hon. Gentleman, who has been so intimately connected with both parties, and who after passing so many years of his political life in censuring with Whigs the mal-administration of Tories, now comes forward to distinguish himself in the ranks of the Tories by his sarcasms on the Whigs!—For the author of the work in question I entertain the sincerest respect and affection. He is a man of the greatest talents and the purest integrity, and

* Plan of Parliamentary Reform, &c. by Jeremy Bentham, Esq.

has devoted a long life to the advancement of the best interests of mankind.. On the present occasion, however, I am obliged to express my dissent from some of his opinions, and my regret that the Book now referred to should ever have been published.

"Sir, without entering fully into the question of Parliamentary Reform,—a question so often discussed, that little, or nothing new, remains to be said upon it,—I shall content myself with cordially voting for the present Motion. I give this vote, not from any vain hope of popularity,—not from an expectation of being able to gratify those who now influence the public opinion on this subject,—but from a sincere, a deep-rooted conviction, that some Reform is necessary. I am a friend neither to Universal Suffrage nor to Annual Parliaments. I even doubt whether I am prepared to go, all at once, so far as to make the right of voting at Elections co-extensive with taxation;—but for some Reform,—for some material change in the present system, I am, and long have been, a zealous advocate. At an early period of my life,—long before I had a seat in Parliament,—when from the gallery of this House I first witnessed its deliberations, and heard Mr. Pitt, with all the generous ardour of youth, and with the same eloquence which distinguished his maturer age, pleading the cause of Parliamentary Reform, I became sensible to the necessity of that

measure. The impressions which were then made on my mind, have never been effaced. Subsequent reflection and observation—more particularly since I have myself become a Member—have only served to confirm them.

"A Right Hon. Gentleman (Sir John Nicholl) has said that Mr. Pitt, in a more advanced period of his life, retracted his earlier opinions on this subject. I know not what authority he has for saying so. Mr. Pitt never avowed such a change of opinion; and though I have no admiration for that distinguished person (the principles on which he acted during the greater part of his long administration having, in my opinion, but ill accorded with the earlier professions of his public life), yet, upon this particular subject I cannot but consider the statement as a slander on his memory. But supposing that Mr. Pitt had avowed such a change; the people will know how to appreciate it. They will understand the motives of men, who change their principles with their stations, and who, on fixing themselves in office, oppose those rights of which they had been previously the most zealous advocates. The People are not to be deluded by the story of the operation of years in altering opinions notoriously founded on the best principles of the Constitution.

"But we have been told, as usual, that this is not a time for any reform in the constitution of

the House of Commons! Sir, if ever there was a period more particularly favourable for the proposed attempt, it is the present. We are in a state of peace; the effects of the bad policy on which the Government has been acting, are at this moment most severely felt; the call for Reform is general throughout the country. Never was the sense of the people so decidedly in favour of the measure. Never, upon any former occasion, have there been so many Petitions, or Petitions so numerouly signed. It is said that they go too far,—that they demand nothing less than radical Reform, than Universal Suffrage and Annual Parliaments. Undoubtedly, I regret to say, many of these Petitions do ask for more than ought, in my opinion, to be granted; but is this a reason for refusing every thing? Is this a reason for rejecting the prayers of those who only solicit what is just and necessary? The City of London, the County of Cornwall, and many other places have petitioned not for Annual, but Triennial Parliaments,—not for Universal Suffrage and election by Ballot, but for reforming such abuses as notoriously exist, in the manner which shall seem most fit to the wisdom of Parliament. Can any thing be more moderate, or less objectionable than these Petitions? They deserve the most serious attention.

"Sir, the Hon. Gentleman has stated that he does not believe there is a man in Parliament who

has adopted the wild notion of Universal Suffrage. What danger then does he apprehend from the appointment of a Committee?—What possible injury from the proposed inquiry?—Does he seriously anticipate a revolution as the possible consequence of throwing a few rotten Boroughs into the popular scale? I will not calumniate his understanding by attributing to him such an opinion. For my own part I do not hesitate to say, that even if the Committee should go no further than to remove a few of these eyesores to the Constitution, an object would be gained. The people would see, that their united prayers were no longer disregarded,—that they were, at least, considered as having some little concern in the Government under which they lived,—that when the whole nation spoke, the House showed some sensibility to its call. Even in its more remote consequences the removal of three or four of these Boroughs might be beneficial. It sometimes happens that a question is maintained with an exact equality on both sides of the House, until at length the balance is turned against the interests of the people, by the accession of three or four Borough Members to the Ministerial scale.

"The Right Hon. and learned Gentleman affects to make very light of the declared opinions of the people. Their opinions, he supposes, have been suggested to them by unprincipled and

designing leaders, and he would persuade the House, that a few demagogues have, by some marvellous and unexplained means, been able to get the signatures of more than half a million of persons to the Petitions on the table. He professes the highest respect for the people's voice, but none for their senseless clamour! That is, in other words, when any popular cry concurs with the opinion, or suits the politics of the learned Gentleman (as when his friends forced their way into administration by the cry of "No Popery"), he respects the people's voice; but when what they call for is only to secure their own liberties and to impose checks on the abuse of power in Ministers,—then, forsooth, their Petitions are to be disregarded and contemned as senseless clamour!

"But we are told to take warning from the revolution in France!—Can any one who contemplates for a moment the principles of the British constitution,—can any one with the history of this country and of the nations of the continent before his eyes, conceive any thing so monstrous as that the application of Reform to the degenerate condition of her decayed Boroughs is to produce revolution? The Hon. Gentleman's caution will be best applied to himself. It should be *his* care to beware of the French revolution. That revolution sprung not from the concession, but from the obstinate refusal, of all Reform.

Instead of correcting abuses, the Government persevered in retaining them, until they had become so intolerable, that the whole nation revolted against them, and in the universal feeling of disgust and indignation excited, the old Government and all its institutions were destroyed. The lesson, therefore, which the French revolution teaches, is, *not* to reject all proposals of Reform till the time for Reform has gone by, and the calamities of revolution have become inevitable. Of this fact the Hon. Gentleman must be perfectly aware; though he has counselled the House to disregard it,—though he would fain have us believe, that a timely acquiescence in the desires of the People is more dangerous than the most obstinate resistance to their demands!

"The Right Hon. and learned Gentleman has represented the British Constitution as being of so delicate a frame, that the least derangement of existing practices may cause its destruction. The slightest scratch, he says, may fester and become a mortal wound. Surely this is a slander on the Constitution. It is of a more robust and vigorous frame. When it has stood so many shocks,—when it has survived the innovation of the Septennial Act and the Irish Union, who is there that can seriously believe it will be endangered by recurring to Triennial Parliaments, or by transferring the Elective Franchise from the decayed and deserted Boroughs to the inhabitants

of populous and flourishing towns? The view, which the Hon. Gentleman who spoke last, has taken of the subject, is perfectly new. He considers the present state of the Representation not, as it really is, the unforeseen consequence of gradual decay and accident, and as imperceptibly brought about by that 'greatest of innovators' time, but as the effect of design, and the result of the wisdom of our ancestors! He describes the representation of Old Sarum as entitled to as much respect as that of the county of York! And it is to such deviations from all the principles of the Constitution, or, to use his own terms, to such contrivances of ancient wisdom, that this country is indebted for all the happiness and prosperity which it now enjoys, and which the Right Hon. and learned Gentleman has admonished us not to bring into danger by our desire of change! Who, that heard this language, would imagine that the Hon. Gentleman was speaking of a time, like the present,—of a time, when our foreign trade is diminished,—our manufacturers unemployed,—our agricultural interests labouring under difficulties such as have been never before known,—our poor rates increased until it is scarcely possible to levy them,—the revenue of the State falling far short of its expenditure,—and the nation struggling under a burden of taxation, which it is unable to support? These are the blessings for which we are told to be so

thankful, and which we are accused of bringing into danger! Nor are these all. To complete the picture of national prosperity one more stroke was wanting, and that was, to suspend the Constitution!—In addition to all their other grievances, Englishmen have now to bewail the loss of those safeguards of their liberties, the writ of Habeas Corpus, and the Trial by Jury! Is it wonderful, then, that such a state of things should have produced discontent? Is it extraordinary that the People, under such circumstances, should be induced to look for relief to a Reform in Parliament,—to a measure, which they had seen such men as Mr. Fox and Mr. Pitt, who were opposed to each other on almost every other subject, combining to obtain, as a remedy for the many evils under which their country laboured?

"Sir, the House will do well to pause, before it disappoints all the hopes of the Country by refusing even an inquiry into the subject. In all their distresses, the People have looked up to Parliament. It is from a persuasion that their grievances can be redressed by the Legislature alone, that they have implored the Regent to assemble the Parliament. And shall we be deaf to their entreaties? Shall we disappoint all their wishes?—I hope not.—Though I do not go so far as many of the Petitioners; though I am an advocate neither for Universal Suffrage nor Annual Parliaments, there are many alterations from

which I have no doubt that the happiest results would flow. Among the first of these is the repeal of the Septennial Act. In the last Session of a Parliament, or when its dissolution is apprehended, the sentiments of the People acquire an influence here which they possess at no other time. Measures, which a Minister will confidently reckon on in the first Session of a Parliament, it frequently becomes impossible for him to carry, as the period of its dissolution approaches. Does any person believe that the Property Tax would have been rejected in a first or second Session? Some one mentions the Petitions of the People as the cause of the rejection. But if that was the motive,—if it was a pure regard and attention to the interests and opinions of the People which then guided the House, might we not expect to find some proofs of this popular influence on other occasions? Why did not the same cause produce the same effect on our deliberations respecting the Corn Laws, or the Salt Duties, or our memorable resolutions upon the Walcheren Expedition?—Does any one really believe, that those measures would have been carried, if the People were fairly represented in this House?

"Sir, the Hon. Gentleman, besides holding out the dangers of innovation, alleges that if once we begin any Reform, there is no saying at what point it will stop. This is the artifice which is always resorted to, when improvements of any

kind are proposed. The same argument is advanced against the Catholics of Ireland. If we relieve them from the disabilities of which they now complain, we are told, that they will next require the abolition of tithes, and afterwards, that their tenets shall become the established religion of the Island. Sir, the answer to these sophisms is, that each question must be decided on its own merits; and that we are not justified in refusing what is just and expedient, by the possibility of such a concession being followed by the demand of what is contrary.

"There is one point to which I must still refer, and on which I entirely differ from the Hon. Baronet, who has brought forward this Motion. He considers the present Borough System as calculated to lessen the influence, and to impose restraints on the authority of the Crown. So far from operating in this manner, I am convinced that it has increased both. It is the corrupt instrument by which the Ministers of the Crown are enabled to extend and to support that patronage and power which have arrived at such an alarming height within the last century."

Sir Samuel Romilly after a few more observations concluded by saying, that among the patrons of Boroughs were many honourable men, who exercised their power of returning Members to that House in the noblest manner,—who appointed persons solely from the good opinion

which they entertained of their principles and talents; but in general, those who purchased that species of patronage, bought it, like other property, to make the most of their bargain. The consequence was, that it generally fell into the hands of Ministers, who had the means of outbidding all other candidates. Thinking this a great evil, and being most anxious to see it corrected, he should certainly vote for the appointment of the proposed Committee.

The House divided:

Ayes - - - - - - - - - -	77
Noes - - - - - - - - - -	265
Majority against the Motion	188

IRISH INSURRECTION ACT.

May 23d, 1817.

Mr. Peel moved the second reading of a Bill, "to continue an Act, made in the 54th Year of His present Majesty's reign, intituled, An Act to provide for the preserving and restoring of Peace in such Parts of Ireland as may at any Time be disturbed by seditious Persons, or by Persons entering into unlawful Combinations or Conspiracies." Sir Samuel Romilly objected to the fur-

ther progress of the Bill. Was the House doing its duty to the people of Ireland, in renewing a measure of such extraordinary rigour, without some inquiry into the actual condition of that country? Without some authentic information to guide the exercise of its authority? Was it any justification of such a law—a law at variance with every principle of our free Constitution,—that it would depend on the discretion of the Executive power and its Magistrates, whether it should, or should not, be applied? By this Bill, it would be in the power of the Magistrates to declare any particular district to be disturbed, and to arrest any individual who should be found out of his dwelling-house one hour before sunrise, or after sunset. Every person so acting was pronounced by this Bill to be a disorderly person, and subjected to the punishment of transportation without a trial by Jury, and by the judgment merely of the Magistrates in Sessions. It moreover empowered Magistrates, personally, to enter any house in the middle of the night, and to decide on the character of its owner,—whether he was to be considered as a disorderly and suspicious person, by the fact of his being present, or absent from his habitation. He would not assert that the unhappy state of Ireland might not require harsh measures of legislation—measures, which were unknown in this country, except as history communicated to us

the restraints endured under the iron yoke of William the Conqueror; but he was convinced that the House, as the representative of Irish, as well as other interests, would not discharge its duty faithfully in voting such measures without perfect information of the circumstances to which they were intended to apply. The Right Hon. Gentleman who proposed this Bill, on another occasion had said, that he should be sorry to exchange the substantial happiness enjoyed by Ireland at present, for the visionary benefits expected from Catholic emancipation! Here then the House witnessed a token of that substantial happiness!

The moderation shown in the enforcement of this Act had been much talked of by the Right Hon. Gentleman and his friends. He (Sir S. Romilly) however believed, that no fewer than sixty or seventy persons had been transported under it. But ought the House to be satisfied with the declaration of Government itself, as to the use it might have made of this unmeasured and arbitrary authority? Was a British House of Commons to be told that despotic power had been leniently applied? If this principle were once admitted, why did they not surrender at once to the discretion of the King's Government every security established by the Constitution? He knew this Act to be a continuation of a measure first brought forward in the year 1807, after he had quitted office. He had voted against it at

that period, and would have done so, had he continued to be a Member of the Government. Among other things, he then protested in the Committee against that odious and detestable clause which authorized the entrance of officers at midnight into the chambers even of women. Against that clause, as well indeed as against the whole Bill, he again entered his protest. If we could not place our brethren of Ireland precisely in the same state of freedom and enjoyment with ourselves, we ought at least to put them forward in the course, and to give them some intermediate gradation between oppression and liberty. He felt himself as much the representative of that country as of any other part of the empire, and he thought that he had a right to call for more exact and copious information before he proceeded to legislate to this extent. He required, as he felt it to be the duty of the House to require, some certain knowledge whether the necessity, if such necessity existed, for these proceedings, originated in the ignorance, the distress, or the unfortunate dissensions of that country.

Sir Samuel Romilly then alluded to Catholic Emancipation, and expressed his surprise at the continuance of an Administration, which was divided in opinion upon so momentous a subject, and at the extraordinary spectacle of the Cabinet Ministers being left in a minority upon a question, which they themselves considered, and contended,

was one of vital importance to the peace of Ireland and the security of the Empire.—Was it to be doubted, that whilst such a system of things continued, the occasion, or the necessity, as it was called, for these unconstitutional proceedings would also continue? The state of Ireland, he feared, would remain unaltered in these circumstances, and it would still be the work of political wisdom, after uniting the two countries, to unite Ireland with herself. He would not then go at any length into the discussion of the claims of the Catholics, but was convinced that they involved a principal, though a remote cause of the unhappy circumstances which led to the present proposition. With these views, it was his intention to move, that the Bill be read a second time that day six months, unless the Right Hon. Gentleman should consent to some previous inquiry.

The Bill was passed.

RIGHT OF MAGISTRATES TO VISIT PRISONS.

June 18th, 1817.

Lord Folkestone rose to move for copies of the instructions sent by the Secretary of State for the Home Department to all Gaolers or other officers respecting the custody and treatment of persons confined under the Act for suspending the Habeas Corpus. The circumstances which called for the Motion were these. There were three persons under confinement in Reading Gaol, upon a charge of treasonable practices; they were called State prisoners; and in consequence of some orders transmitted by the Secretary of State to the Gaoler, the visiting Magistrates of Berkshire were not allowed to see them. Now, he (Lord Folkestone) felt himself entitled to complain, that he was deprived of the right, which he had as a Magistrate of that county, to visit that Gaol; and he had no hesitation in saying, that the authority which had been assumed by the Secretary of State was a gross violation of Law. By the 31st of the King, ch. 46, it was expressly declared, "that, for the better preventing all abuses in County Gaols, the Magistrates for the County, of their own accord, and without being appointed

visitors, might, from time to time, enter into such Gaols, and examine into the treatment of the Prisoners; and if they saw any abuse, that they should report the same to the Quarter Sessions, and no abuse so reported should be allowed any longer to continue." When the House found that this Act remained on the Statute Book unrepealed, what would they say to the order of the Secretary of State, who had taken upon himself to prevent the Magistrates from visiting the County Gaols? The power thus arrogated was illegal and unconstitutional: it was a direct violation of that clause in the Bill of Rights, which declared, that the laws of the Land should not be suspended or dispensed with, without the authority of Parliament.

The Attorney General contended that every Gaol was the King's Gaol, and that the right to control the access to State Prisoners was one of the prerogatives of the Crown, and had always been exercised by the Secretary of State. It had been exercised before and since the Revolution up to the 31st of the King without opposition, and that Statute did not in any way affect or alter the prerogative.

Sir Samuel Romilly said that he had never heard a doctrine more dangerous, novel, or destitute of all foundation than that advanced by the Attorney General.—It was of little importance to inquire what the power of the Crown was in this

respect before the Act of 1791. The question was, whether a Secretary of State, after that Act, could, without a violation of the law, prevent the Magistrates of a county from investigating the state of the Prisons within their jurisdiction. The learned Gentleman had contended that, the prerogative of the Crown could not in any case be taken away by an Act of Parliament, without express words contained in the Act for that purpose. This was true in some cases, but not in all. The rule held good in certain cases of civil rights, —such as debts due to the Crown, which were affected neither by the Bankrupt Laws nor the Statutes of Limitation; but was it ever held, that, in Acts of general regulation,—Acts which went to check abuses, and protect the Rights of the subject,—the Prerogative of the Crown could not be taken away except by express words? The very contrary had been often decided. In the great case of the Master and Fellows of Magdalen College *, in Lord Coke's Reports, the

* 11 Co. 68—70, 71.—And in 5 Co. 14, it is laid down that, "all Statutes which are made to suppress wrong, or to take away fraud, or to prevent the decay of religion, shall bind the King, although he be not named, &c. &c. And, therefore, it is agreed, in 35th Hen. 6, — 60, that the King shall be bound by the Stat. of West. 2, cap. 5, which makes provisions against tortious usurpations, although the King be not named in the Act. So in Lord Berkeley's case, reported by

question was, whether the Statute * preventing the alienation of property by Ecclesiastical bodies extended to the Sovereign, as well as to the subject, there being no express words in the Statute that applied to the former. The Judges unanimously resolved, that the Crown was within the provisions of all Statutes passed for the protection of the subject, and the redress of wrongs; and that the grant which had been made by Magdalen College to Queen Elizabeth was consequently void.

Now he would ask, whether the Statute passed in 1791, was not a general Statute, passed for the protection of the subject and the redress of wrongs, and whether there was any decision,—any dictum of any Judge,—any authority of any kind, to be found in any of the books, which asserted that the King was not bound by Acts of general regulation? Since the Bill of Rights, it had not been the fashion openly and directly to advocate the doctrine of a dispensing power in the Crown. But what was the effect of his learned Friend's whole argument but to revive that

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Mr. Plowden, it is adjudged, that, if a gift in tail be made to the King, he cannot alien or defraud him in reversion or his issue, but is bound by the Stat. of West. 2, de donis conditionalibus, &c. &c." *Case of Ecclesiastical Persons, in the High Court of Parliament.*—See, also, 2 Inst. 359—681, &c.

* 13th Eliz. c. 10.

doctrine? To what purpose did he deny the existence of a dispensing power in the King, if he defended the exercise of it by a Secretary of State? The Act of 1791, said generally that Magistrates should visit all the Prisons within their respective jurisdictions;—the Secretary of State forbade them in certain cases to do so, and issued orders to the different Gaolers to refuse them admission!—What was this but dispensing with the laws of the land?

But it was contended by his learned Friend, that though the Statute gave the Magistrates a right to visit Prisons, it did not allow of any communication with the Prisoners! He (Sir S. Romilly) was astonished to hear such arguments. How could the Magistrates perform the duty imposed on them by Law,—the duty of preventing all abuses of authority,—but by seeing and communicating with the Prisoners in their dungeons? Could they learn or repress the misconduct of the Gaoler by making inquiries of the Gaoler himself? Could they ascertain the state of the Gaols, and the treatment of the Prisoners, and report them, as they were bound to do, to the Quarter Sessions; if they were not to see the Prisoners,—if they were not to speak to them,—if they were not to inquire after their health, and to examine the dungeons in which they were confined?—The language and object of the Act were distinct and clear, and the very reverse of what the Attorney General had

described them. It was passed on the representation of improper conduct in various Prisons; and with a view of repressing such improper conduct, it directed certain Magistrates, and allowed others, to visit and report the state of the Prisons. But to what purpose, he would again ask, were they to visit the Prisons, unless they saw and communicated with the Prisoners? His learned Friend had said, that, when the Act passed, no such cases as these could have been in the contemplation of the Legislature; but that was not the question. It was not what might be supposed to have been contemplated, but what had been done, and what was the actual Law! If any thing wrong had been enacted, it might be amended in a new Act; but till such new Act had passed, we must abide by the old Law. Sir Samuel Romilly concluded, by repeating, that the Secretary of State had assumed an authority to dispense with an existing Act of Parliament, and that the doctrines by which the Attorney General had attempted to vindicate such a proceeding, would, if generally acted upon, subvert the Constitution, by setting the Crown above the whole Law.

The House divided:

Ayes - - - - - - - - - -	56
Noes - - - - - - - - - -	85
Majority against the Motion - -	29

SUSPENSION OF THE HABEAS CORPUS.

June 23d, 1817.

Lord Castlereagh moved the first reading of the Bill to continue the Suspension of the Habeas Corpus Act. He was supported by Mr. Leigh Keck, and Mr. Wilberforce, and opposed by Mr. Ponsonby, Mr. Abercromby, and Lord Althorpe. Sir Samuel Romilly rose at the same time with Mr. Courtenay, and having been called on by the Speaker, said, that he hoped he should not deprive the House long of the pleasure of hearing his learned Friend. "Having taken, however" (he continued), "some part in opposing the former Bill, I am unwilling to give a silent vote upon this. The noble Lord has said that all, who have voted for this measure in the early part of the Session, must necessarily concur in it now; and that even those, who were hostile to it then, ought, in the present circumstances of the country, to give it their support. So far, Sir, am I from coinciding with the noble Lord in this opinion, that, even if I had been friendly to the Bill before, I should be decidedly against it now. It is proved not only to have been wholly inadequate to its object, but to have even aggravated the mischief which it was designed to prevent. But

admitting, for the sake of argument, the propriety of the former Bill, I consider the present as exposed to objections which did not then exist. Though this most important right of the subject was taken away, it was only for a limited time. Parliament was sitting, and could revise or revoke, or guard against the abuse of, the powers which it had intrusted to the Government. But now it is proposed to suspend this right for an indefinite period, and during a time when there will be no safeguard,—no parliamentary check or control on the hands of Ministers. It is in their breasts, and their breasts alone, how long we are to be deprived of this right. It will depend on their pleasure and discretion, whether Parliament shall meet in December, February, or March!—Can any thing be more repugnant to the spirit of liberty than to commit such a power — a power so unlimited both in duration and extent,—into hands of any man or set of men? So dangerous, so unconstitutional do I consider it, that if the Bill is carried, it is my intention to propose, at least, the appointment of some early period, beyond which it shall not be permitted for Ministers to delay the assembling of Parliament.

"Sir, the noble Lord has talked of circumstances of augmented danger. If such be the case, what does it prove, except that the Suspension Bill has been not only inefficient, but that it has even fomented the evils it was intended to

remove? If new treasons, as the noble Lord insinuates, do exist, they must have grown up under the very measure, which was passed, and which he now calls on the House to renew, for the express purpose of crushing them.—He is indebted to his own specifics for the increased danger of the public disease. And who can be astonished at it? Who ought to have doubted that the course pursued by Ministers would furnish food for discontent and disaffection? Before the Suspension of the Habeas Corpus, the grievances complained of by the people might, in some sense, be said to have been imaginary. They might have had some remote notion that every thing was not precisely as it was in the reign of King John. But now it is very different. There is a positive and present evil to complain of; an evil no less than their liability to the privation of personal liberty, and that without notice and without trial. There is also another evil not less grievous. It is now for the first time avowed, that SPIES are in the regular pay of Government, and are a part of their cruel system of administration; SPIES, who are the promoters and instigators of the crimes which they afterwards denounce! Are not these things sufficient to excite discontent and disgust through the House and the whole nation?

"It is impossible now not to feel that the last Report (of course unintentionally) is in many respects a gross exaggeration. Is there a man who

believes, that if the Committee had seen the examination of certain witnesses, it would ever have made so strong a Report? It is a most striking feature in this case, that though these treasonable practices are said to have continued so long, and though the Quarter Sessions and the Assizes have been since held in the disturbed districts, yet nobody has been brought to trial. Government, indeed, has studiously ayoided bringing the matter into any train of open examination. Though one hundred and forty persons had been arrested in the neighbourhood of Manchester alone, and though some of them had been indicted, yet, rather than bring them to trial, Government has sent down *Certioraris*, in order to prevent immediate investigation. How is this to be accounted for? How is it, that when there is an opportunity of making that example which Ministers of course must consider as the most salutary, yet they do all in their power to put off or prevent so desirable a result? How is this to be explained, except on the supposition that Ministers feel that investigation may be unfavourable to the object which they have in view?

"The same observation also applies to cases of seditious Libel, about which so much parade was made in the first Report. Not one person has been brought to trial except for an offence which has been created by the very Suspension of the Habeas Corpus Act. Thus the measure has produced the

very mischief which it pretended to remedy. Indeed, looking at the last Report, I find more than one passage corroborative of this position, that the Act has rather increased than diminished the evil so much complained of. The Report in one place states, that 'it appears to the Committee that the utmost confidence prevailed among the delegates, as to the ultimate attainment of their objects; that the successive arrests of several of the principal leaders, though they occasioned a momentary disappointment, did not extinguish the spirit of insurrection, or the hopes of success in the parts of the country above mentioned; and the utmost impatience was manifested at the delays which had taken place in fixing the day for the general rising.' — Another passage is still stronger: 'Your Committee cannot contemplate what has passed in the country, even since the date of their former Report, without the most serious apprehension. During this period the precautionary measures adopted by Parliament have been in force; many of the most active promoters of public disturbance have been apprehended; the immediate projects of the disaffected have been discovered and deranged; yet nothing has deterred them from a steady pursuit of their ultimate object.'—What does this prove, except that no permanent good can be expected from these boasted measures of repression? It is somewhat curious, that when Government is already armed

with the power of transporting any of these delegates who may be found offending, yet they carefully shun what might be a useful example, and prefer locking them up in obscurity, so that not even their names can escape to warn their fellows, and deter their followers! And thus their punishment is at once odious and useless.

"The Hon. Member for Leicester (Mr. Leigh Keck) has intimated that this measure is necessary for the repression of Luddism. I must deprecate this idea; I conjure the House not to entertain it for a moment; for, if it is once to be allowed that the suspension of the rights of the whole People is the only effective remedy for Luddism, I fear that the consequence will be, that the Suspension Act may last, not for six weeks, or for six months, but for six years, or for sixty. Luddism, I fear, is not likely ever to be eradicated by such a proceeding, or within so short a time as some Gentlemen contemplate.

"The last Report seems to acquit London from the charge of any connexion with the disaffected; at least it states, in a very ambiguous manner, that the Committee has obtained no specific information of any body of men associated in the metropolis with whom the disaffected in the country appear to be acting in concert. This ought to induce my Hon. Friend (Mr. Wilberforce) to regard the spirit, of which he is afraid, as less extensive and powerful than he has supposed it to be.

I must confess, too, that after the petitions which have been laid on the table, and amongst others that from the place which my Hon. Friend himself once represented, the town of Hull,—numerously and respectably signed as it is;—after the instances which have been produced, of great oppression under the Suspension of the Habeas Corpus Act, and particularly one which has been laid on the table this evening, and which relates to a case of uncommon severity *, I cannot but be surprised how my Hon. Friend, with the knowledge he possesses of these facts, can still believe that none but the disaffected entertain apprehensions on the subject of the Suspension of the Habeas Corpus Act. I well know the humane disposition of my Hon. Friend, and am convinced, that he could not have looked into the circumstances and situation of the country with his usual attention when he delivered this opinion. The uniform kindness of my Hon. Friend towards myself will not permit me to suppose that I am ranked by him among the disaffected, though I frankly avow that I am one of those persons who entertain most serious apprehensions from the passing of this measure. It is giving to Ministers a power most dangerous to the Constitution, and I care not in whose hands that power may be placed. It

* The case of Paul Thomas Lemaitre.—*See Evans's Parliamentary Reports, vol.* i. *p.* 1530.

is one of the melancholy signs of the times, that while day after day new encroachments are making on public liberty, the answer to every complaint is, that the power which is given will be placed in gentle hands! Was there ever any despotic government which did not claim the right of exercising power on this ground? It is the interest of every Government to govern well; and when even the most despotic enforce mischievous measures, it often proceeds rather from ignorance or want of judgment than wicked intention. Sir, the only real security for the governed is that responsibility of the Government which it is the object of this measure to remove.

"The private character of the noble Lord on whom these powers will devolve, is, I am sensible, meritorious and praiseworthy; but I am not on that account bound to entertain respect for him as a public man. I cannot reconcile myself to so light a way of speaking of the Constitution as that which makes the suspension of its most valuable privileges a matter of indifference, because the arbitrary authority which must be the consequence of that suspension, will be vested in gentle hands. For my own part, however, I do not perceive such particular cause for satisfaction on this subject. I cannot so readily join in the favourable opinion which has been expressed of those who are to exercise this monstrous power. I cannot forget that it is placed in the hands of men who

have so recently violated and vindicated the violation of an express Act of Parliament.

"Another objection, and by no means a slight one, to this Bill is, that it extends to Scotland, though the Report affords no ground for that extension. Is it possible to point out a single sentence in the Report which can afford a pretext for depriving Scotland of the protection of the Act against 'wrongous imprisonment?' I can state that the disposition of the people of Scotland is most orderly and loyal;—I can do this, not upon vague and uncertain evidence, but upon the best authority. The address lately voted by the General Assembly of the Church of Scotland to the Prince Regent,—by a body of the Clergy, who do not, as is unfortunately too often the case in England, live apart from their charge, but who are always resident in their respective parishes, and intimately acquainted with the sentiments and situations of their flocks,—that Address describes the people as enduring the distress and difficulties they have to encounter with the greatest firmness, tranquillity, and patience; and 'congratulates His Royal Highness, that neither privations nor the corrupting influence of inflammatory language employed by seditious persons, have been able to seduce the people from their principles of loyalty and allegiance.'—Why then are the people of Scotland threatened with the suspension of this Act, which is justly regarded as the Magna Charta of that country?

"The noble Lord talks of the great responsibility under which Ministers bring forward this measure. Sir, the Ministers will incur no responsibility, and they know that they will incur none. They are quite sure that this House, whenever they ask for it, will pass a Bill of Indemnity. The same House, which has refused even to require the names of the persons now immured under this Bill, will, if the Ministers wish it, give them a Bill of Indemnity by anticipation for what they may hereafter do, as well as for what they have already done. My Hon. Friend seems to make very light of the evils which may be produced by the exercise of these extraordinary powers, as if it is little, that individuals may be carried off from their homes, and imprisoned in dungeons, without any of their friends knowing where they are to be found. My Hon. Friend supposes that such transactions cannot take place without being soon inquired into, and that any act of oppression must speedily come to the knowledge of the public. This would indeed be true, with individuals of distinction like himself, or with persons of any consequence; but who will inquire after unfortunate journeymen shoemakers or weavers? The obscurity of these persons renders them liable to the greatest oppression. I know not whether my Hon. Friend was in the House when a petition was presented from an individual who had been detained seven years

in close custody *. There are many such cases, and the parties, though no charge has been brought against them, have been ultimately shut out from all means of obtaining redress. The noble Lord has said that Ministers have no interest in possessing themselves of this extraordinary power. On this point the public are not exactly of the same opinion as his Lordship. How differently has the Session passed over from what it would have done, had it not been for the introduction of these arbitrary measures! To the alarm which has been raised in the country, it is generally believed, that the noble Lord and his colleagues are in some degree obliged for the situations which they have been allowed to retain. For what questions of economy or reduction of expenditure could be attended to, when measures of magnitude like the present, were forced upon Parliament?

"Sir, I cannot look without dismay upon the situation of the country. The prospect on every side is most melancholy. There are two great parties strongly opposed to each other; the Ministers and their friends, who are incessant in their endeavours to extend the power of the Crown, on the one side;—and on the other, those who profess to be of no party, but who are proceeding not less steadily and systematically to the objects which they

* Paul Thomas Lemaitre.

have in view. The system of the one is promoted by the conduct of the other. The misrepresentations and artifices, by which it is attempted on the part of a few demagogues to destroy all confidence of the People in public men, are confirmed, and receive an authority which they would otherwise want, from the recriminations, in which Ministers have been so long in the habit of indulging against their predecessors. Instead of defending themselves, they only tell us that others are equally criminal,—instead of vindicating the policy and justice of their own measures, they exert themselves on all occasions, to find out that something as bad has been done by their opponents,—inculcating a belief, that all who interfere in the public councils are solely actuated by a desire of possessing or retaining power. The consequence is, that, the people are left without any persons to look up to except temporary adventurers. To such an extent, by this extraordinary co-operation of opposite parties, has this evil reached, that, were the country destined to undergo any great political convulsion, it is to be feared, that the dangerous powers to which such a crisis always gives birth, would be wielded by men the most dangerous and desperate, whom nothing but so extraordinary a state of things could ever raise into importance. In the mean time each of these parties is strengthening the other's hands. The popular faction, by acts of

violence is affording a pretext to the Ministers to destroy or to suspend all that is most valuable and sacred in the Constitution, while Ministers, by their arbitrary measures, provoke the People to acts of violence and insurrection.—How these things will end,—what will be the result of that crisis, which each party seems so desirous to hasten, I will not pretend to say;—but should it come, (which God avert!) this is at least certain, that it will bring with it evils and calamities, which no honest mind can contemplate without horror. For this state of things,—should it ever unhappily occur,—for these multiplied and aggravated calamities,—the noble Lord opposite (to adopt an expression of his own), the noble Lord and his colleagues will be chiefly answerable in the eyes both of God and man!

The House divided:

Ayes - - - -	276
Noes - - - -	111
Majority - - -	165

LORD SIDMOUTH'S CIRCULAR LETTER*.

June 25th, 1817.

Sir Samuel Romilly rose to make his promised Motion on the subject of Lord Sidmouth's Circular, and spoke in substance as follows:—

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* The following is a copy of Lord Sidmouth's Letter.

"*Whitehall, 27th March* 1817.

"My Lord,—As it is of the greatest importance to prevent, as far as possible, the circulation of blasphemous and seditious pamphlets and writings, of which for a considerable time past great numbers have been sold and distributed throughout the country; I have thought it my duty to consult the Law servants of the Crown, whether an individual found selling or in any way publishing such Pamphlets or Writings might be brought immediately before a Justice of the Peace, under a warrant issued for the purpose, to answer for his conduct.—The Law Officers having accordingly taken this matter into their consideration, have notified to me their opinion, that, a Justice of the Peace may issue a warrant to apprehend a person, charged before him on oath with the publication of libels of the nature in question, and compel him to give bail to answer the charge.—Under these circumstances, I beg leave to call your Lordship's attention very particularly to the subject; and I have to request, that, if your Lordship should not propose to attend in person at the next General Quarter Sessions of the Peace, to be holden in and for the County under your Lordship's charge, you would make known to the Chairman of such Sessions the substance of this communication,

"Mr. Speaker, I shall offer no apology to this House for bringing under its notice the Circular Letter which has been addressed by the Secretary of State to the Lords Lieutenants of Counties in England and Wales. If I owe any apology, it is for having deferred the subject to so late a period of the Session. This delay has not

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in order that he may recommend to the several Magistrates to act thereupon, in all cases where any person shall be found offending against the law in the manner above mentioned.—I beg leave to add, that persons vending pamphlets or other publications, in the manner alluded to, should be considered as coming under the provisions of the Hawkers' and Pedlars' Act, and be dealt with accordingly, unless they show that they are furnished with a license as required by the said Act.—I have the honour to be, &c. &c.

"SIDMOUTH."

OPINION of the Law Officers of the Crown referred to in the said Circular Letter.

"We are of opinion, that a Warrant may be issued to apprehend a party charged on oath for publishing a Libel, either by the Secretary of State, a Judge, or a Justice of the Peace.

"With respect to the Secretary of State, in the case of Entick v. Carrington, as reported by Mr. Hargrave, though the Court were of opinion that the Warrants, which were then the subject of discussion, were illegal, yet Lord Camden declared, and in which he stated the other Judges agreed with him, that they were bound to adhere to the determination of the Queen v. Derby, and the King v. Earbury; in both which Cases it had been holden, that it was competent to the Secretary of State to issue a Warrant for the apprehension of a person charged with a scandalous and seditious Libel; and that they, the Judges, had no right to overturn those decisions.

"With

proceeded from any insensibility, on my part, to the magnitude of the question; on the contrary, it is the strong sense which I entertain of its importance, which has made me hesitate for a moment on the subject. Connected, as the decision of this question so intimately is, with the due administration of justice, the liberty of the press, and the character of the Legislature—it is with

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"With respect to the power of a Judge to issue such Warrant, it appears to us, that at all events, under the Stat. of the 48 Geo. III. ch. 58, a Judge has such a power, upon an affidavit being made in pursuance of that Act: a Judge would probably expect that it should appear to be the intention of the Attorney General to file an information against the person charged.

"With respect to a Justice of the Peace, the decision of the Court of Common Pleas, in the case of Mr. Wilkes's Libel, only amounts to this, that Libel is not such an actual breach of the peace as to deprive a Member of Parliament of his privilege of Parliament; or to warrant the demanding sureties of the peace from the Defendant; but there is no decision or opinion, that a Justice of the Peace might not apprehend any person not so privileged, and demand bail to be given to answer the charge. It has certainly been the opinion of one of our most learned predecessors, that such Warrants may be issued and acted upon by Justices of the Peace, as appears by the cases of Thomas Spence and Alexander Hogg, in the year 1801. We agree in that opinion, and therefore think that a Justice of the Peace may issue a Warrant to apprehend a person, charged by information on oath, with the publication of a scandalous and seditious Libel, and to compel him to give bail to answer such charge.

"*Lincoln's Inn,* W. GARROW.

"24*th February* 1817. S. SHEPHERD."

some apprehension that I bring it even now before the House. I know that these are not times at all favourable for agitating Constitutional questions: I know the address with which those who are hostile to the rights of the people often contrive, by majorities of this House, to convert any attempt to vindicate those rights into the means of victory over them.—But, whatever may be the result,—however vain any effort of mine to induce Ministers to retrace their steps,—however they and their supporters may choose to elude the clearest conclusions of Law, or frustrate the strongest deductions of fact,—I cannot suffer a measure of such dangerous consequence as this Circular Letter, to pass unnoticed. No use, which can be made by Ministers of any decision to which the House may come on this night, can, in my opinion, be attended with greater mischief than that such a manifesto should go forth unquestioned,—that such a precedent of the new law and practice, which is intended to be introduced, should be established, without one Member of the House of Commons, the constitutional guardians of the liberties of the people, raising up his voice against it.

"The Letter, to which I wish to call the attention of the House, is addressed by the Secretary of State for the Home Department to the Lords Lieutenants of England and Wales, and requests them to communicate to the Magistrates

of their respective Counties the opinion of the Attorney and Solicitor General on the law of libels, and the direction of the Government as to the conduct of the Magistrates in all such cases. They are there told that they have the power by law to arrest and hold to bail all persons charged with the offence of libel, and are recommended to exercise this right upon all occasions.—Sir, to the law as stated in this Letter, I cannot accede.—The question, however, appears to me to be of even greater importance in a constitutional, than in a legal, point of view. Supposing the *law* to be quite clear,—supposing that there could exist no doubt or difficulty whatever upon the subject, still I would say, that the circumstance of a Minister of the Crown thus interfering with its execution, is contrary to the principles of the Constitution, and inconsistent with the pure administration of justice. But what if the law, instead of being clear, is, in fact, extremely doubtful? What, if the Secretary of State has represented that as law, for which no warrant or authority can be adduced?

"I will, however, for the sake of argument, in the first place, suppose that Magistrates have such a discretion as the Letter ascribes to them,—that they possess the power of committing, or holding to bail for seditious and blasphemous libels.—What more dangerous authority, even then, can be assumed by a servant of the Crown,

than to interfere with this discretion, and to dictate to those possessing it, the manner in which it shall be exercised?—The law is supposed to have said, that it shall be for the Magistrate, judging of all the circumstances of each particular case, to determine, whether he will, before indictment, require persons charged with the offence of libel, to find bail or be committed to prison; but the Minister recommends it to him to hold to bail or commit, in all cases and under all circumstances. The law allows a discretion to the Magistrate to be exercised by him, according to his view and knowledge of the particular case; but the Secretary of State arrogating that discretion to himself, proceeds to exercise it blindly, at all hazards,—in defiance of circumstances,—in contempt of all considerations of greater or less criminality, of inadvertence, precipitancy, or ignorance, with which the several cases may be attended.—It is common for Judges to offer recommendations to Grand Juries at the Assizes,—to call their attention to new or unnoticed Acts of Parliament, nor am I aware of any objection to the practice: but who ever before heard of the Ministers of the Crown interfering with the administration of justice, and transferring to themselves the exercise of that discretion which is vested in the hands of the Magistracy? In many cases the law gives to the judicial officer a discretionary power as to the degree of punishment which shall be inflicted upon offenders; he

may visit the same offence with greater or less rigour according to the circumstances under which it may have been committed. What would be said of any Minister of the Crown who took upon himself to require the Magistrate, in every case, to inflict the severest punishment which the law had allowed?—And yet the interference with judicial discretion is as unjustifiable in the one instance as in the other.

"This unprecedented and unconstitutional recommendation, moreover, is given with respect to a discretion which ought, even where it avowedly exists, to be exercised but very rarely and upon very extraordinary occasions. Since the Act of 1808 *, it is clear, that the Judges of the King's Bench have authority to commit, or hold to bail, any persons against whom an information for libel may have been filed. But so seldom has it been thought expedient to resort to this power, that when, in the year 1811, a question respecting *ex officio* informations was agitated in this House, Sir Vicary Gibbs, who was then Attorney General, declared, that, of all the persons against whom informations had been filed in the course of the three years which had elapsed since the Act first passed (and they were numerous,—no fewer, it was said, than *forty*), only

* 48 Geo. III. ch. 58.

one had been required to give bail. *That*, too, was a case of an aggravated nature; the Defendant having had the boldness, after an information filed against him, to publish a new edition of the obnoxious work. Yet this discretion, which was deemed necessary to be resorted to, but in one solitary instance, by the Attorney General, is now, it seems, to be exercised by *every* Magistrate in *all* cases whatever!

"In 1793, and the succeeding years, when the present Lord Chancellor was Attorney General,—notwithstanding the numerous prosecutions for libels, which were instituted by him in every part of the kingdom,—though Paine's Rights of Man, Barlow's attack on the privileged orders, and other publications supposed to be most dangerous, were amongst them,—in no one instance was any Defendant held to bail. No attempt of the kind was even made. This fact alone, in my opinion, goes a great way to prove that the right assumed does not by law exist in the Magistrates; but every one must admit, that it proves, if such a right does exist, that it is only in very rare and extraordinary instances that it ought to be called into action. The Executive Government, however, presuming to interpose with the Magistrates in their mode of administering justice, tells them, that it must be constantly and in all cases acted upon.—What should we say of any individual Magistrate, who had presumed spontaneously to

lay down for himself this rule which Lord Sidmouth has prescribed for the guidance of all Magistrates,—who had declared beforehand, that he would, in *all* instances, and without regard to the facts or circumstances of particular cases, exercise this power, and commit in absence of bail every person who might be brought before him on charge of Libel?—What should we say of a Magistrate who had so far forgotten his duty? Should we not think him unworthy of his office, and that the Lord Chancellor had properly exercised the discretion which the Constitution vested in him, by striking out his name from the Commission of the Peace? And yet *this*, which no Magistrate can justly do, and which, if he was to do, the Lord Chancellor would be bound to punish, the Secretary of State presumes to recommend to all Magistrates!—Upon a supposition, therefore, that the law is such as it has been represented by the noble Secretary, still I will contend, that he has violated the first principles of the Constitution, and trampled upon the most sacred rules of judicial administration, by thus giving directions for its indiscriminate exercise and application.

"But what, as I have observed before,—what if the existence of this law be extremely doubtful? And this the Secretary of State seems himself to admit by the whole tenour of his Letter and conduct,—by his application to the Law Officers of the Crown, and by the necessity which he felt of

promulgating their opinion at all the Quarter Sessions of the kingdom. If the law on this subject was so clear as some would now contend, how shall we account for the general ignorance which seemed to prevail, as to its existence? The Magistrates knew nothing,—the Secretary of State even hesitated, about it,—and the Attorney and Solitor General, to whom his Lordship thought it expedient to apply for a solution of his doubts, have been able to offer no one single authority of any weight in confirmation of their opinions. They tell us indeed, that the decision of the Court of Common Pleas in the case of Mr. Wilkes is not a decision against this power, and that the opinion of one of their most learned predecessors is in favour of it!—But is this enough? Is this the way in which the Law of the Land is in doubtful cases to be expounded? Is the unsupported opinion of an Attorney and Solicitor General to sanction the exercise of so unusual and dangerous a power?—If the Crown can by its officers do so,—if it can thus declare *what* is law, the Crown is in itself equal to the whole Legislature of King, Lords, and Commons.

"By the Constitution of this country there are only two modes in which the law can, in doubtful matters, be established. The one is by a declaratory act of the Legislature;—the other is by the regular and solemn decisions of the Judges. It has been at all times thought of the utmost im-

portance to prevent the law from being declared in any other way. A power to declare the law, would in many cases amount to a power to make the law, and would render the Crown independent of the other branches of the Legislature. Those of our Princes, who have been most anxious to extend their prerogative, seem to have been well aware of the advantage of such a power. Yet even they endeavoured to obtain for the law, which they declared, the sanction of the Judges, however extra-judicially and informally given. It has been only in very late times, and I believe under the present Secretary of State alone, that the opinions of Attorneys and Solicitors General have been resorted to for the purpose of giving countenance to the law which the Government wished to promulgate. Two years ago, when the Ministers of the Crown thought proper to keep the Militia embodied after the conclusion of the war, and when all the causes, which could by law justify the embodying or continuance of them embodied, had ceased, the same Secretary of State had recourse to the Law Officers of the Crown, and upon their authority pronounced to the world the legality of the measures which he and his colleagues were desirous to pursue.—Even under the Stuarts this would not have been tolerated! Even Noy, the Attorney General of Charles the First, did not venture the lengths

which have been attempted in the present day. That unhappy man (who, from being an able and zealous assertor of the people's rights, was induced, by his love of flattery and power, to degrade himself into the mean instrument of tyranny and oppression) is said to have first devised the scheme of Ship-money. To enable his Royal Master to dispense with Parliaments, he recommended that expedient for levying taxes without their authority. The necessity of the State must be supplied, and who but the King was to be the judge of that necessity? Thus argued the Attorney General of that arbitrary reign; but neither he nor his employers thought of promulgating *his* opinion as declaratory of the Law of England. They felt that a higher authority was required to stamp their proceedings with the seal of right. They accordingly appealed to the Judges, who were assembled in the Star Chamber, and whose opinions were taken in writing, and then enrolled in all the Courts of Westminster.—Do the Gentlemen on the other side imagine, that I am attempting to palliate these things? That, because I have represented the contrast which exists between the present case and that of Ship-money, to be in favour of the latter, I am recommending the course which was pursued on that occasion? —No; the whole proceeding was as illegal as it was unconstitutional. The law indeed was not

declared on the opinions of the Law Officers of the Crown, but on the opinions of the Judges. Still it was on their extra-judicial opinions,—on opinions given at the solicitation of the Crown, and formed without the advantage of hearing the case argued, and being furnished with the authorities and reasons which might be produced by those who had an interest to dispute the law. Fortunately for this country, the question was at length brought to issue. A man was found bold enough to dispute the law which had been thus published; a man, to whom I will not be deterred from giving due honour by the prevailing fashion of undervaluing his conduct and deriding his merits,—by the sycophancy and servility of those, who would pay their court to power by vilifying the founders of national liberty and happiness, and by depreciating the brightest ornaments of human nature. The prevention of that arbitrary and unjust measure was entirely owing to the firmness and the honesty of JOHN HAMPDEN. But when this immortal patriot brought the case distinctly before the Judges, eight out of twelve were so far corrupted as to adhere to their former opinions; and Crooke and Hutton (names that I am proud to mention with a distinction so honourable) urged the strongest arguments against their decision in vain. The majority felt a sort of interest, —a party bias,—an esprit de corps, which led

them to give that iniquitous and disastrous decision *.

"In the reign of Charles the Second, the Judges were again called upon to give an extra-judicial opinion, on the subject of Libels, and they accordingly signed a declaration, that, 'to

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* The Judges were:

For Mr. HAMPDEN.	For the CROWN.
Sir George Crooke.	Sir John Finch.
Sir Richard Hutton.	Sir John Brampston.
Sir John Denham.	Sir Francis Crawley.
Sir Humphrey Davenport.	Sir Francis Weston.
	Sir Robert Berkeley.
	Sir George Vernon.
	Sir Thomas Trevor.
	Sir William Jones.

"These sworn Judges of the Law (says Lord Clarendon) adjudged Ship-money to be a right on such grounds and reasons as every stander-by was able to swear was not law."—"When men saw in a Court of Law (that law, that gave them title to, and possession of, all that they had) reasons of State urged as elements of Law,—Judges as sharp-sighted as Secretaries of State, and in the mysteries of State; Judgment of Law grounded on matter of fact, of which there was neither inquiry nor proof; and no reason given for the payment of the thirty shillings in question, but what included the estates of all the standers-by, they had no reason to hope that the doctrine, or the promoters of it, would be contained within any bounds, &c."—"And here the damage and mischief cannot be expressed, that the Crown and State sustained by the deserved reproach and infamy that attended the Judges, by being made use of in this and like acts of power," &c. *Clarendon, Book I.*

print any news-books or pamphlets of news whatsoever was illegal, and that it was a manifest intent to a breach of the peace, and might be proceeded against by Law.' It is in these words that Lord Chief Justice Scroggs, a person every way worthy to be the promulgator of such doctrines, states the opinion of the Judges in the case of Henry Carr *. What is the difference between that case and the present, except that the authority for the exposition of the Law was so much higher in the former than in the latter? Strong as are the objections which must ever exist against the opinions of Judges thus extra-judicially and informally given; I still consider them, in every point of view, as preferable to the opinion of an Attorney and Solicitor General. It is not only because they must be supposed to be more learned and more experienced, but because they must be expected to have more honesty. The Judges are sworn to administer justice impartially between the King and his subjects; the Attorney

* The conduct of Scroggs on this occasion formed one of the articles of impeachment against him, in 1680-1.—The proceeding on the part of himself and his brother Judges, "in condemning not only what had been written, without hearing the parties, but also what might for the future be written"—was stigmatized by the House of Commons as contrary to all justice, as an open invasion of the right of the subject, and an assumption to themselves of a legislative power and authority.—*Parliamentary History, vol. iv. p.* 1275.

and Solicitor General take no such oaths. They are sworn only to serve the Crown; they hold no judicial office; they are Advocates, dependent on the Crown, not only for their present offices, but for their future promotion. Sir Henry Spelman has described an Attorney General in these words, '*Attornatus Regis est, qui causas Regis forenses non solum promovet, sed ex more Advocati fortissime tuetur.*'—I would not be understood as insinuating any thing against the present Attorney or Solicitor General. I only argue on the general principle, when I say, that in questions respecting the liberty of the Press and the rights of the People, they are the very worst authorities that can be adduced. It has been truly said by the Biographer of Bacon, that the offices of Attorney and Solicitor General are rocks on which many aspiring lawyers have made shipwreck of their virtue. More striking instances cannot be adduced than those of Sir Edward Coke, and Sir Francis Bacon himself,—the one, the great oracle of the profession of law,—the other, an ornament not only of his country, but of the age in which he lived. Never were there scenes of baser servility and more cruel persecution, than during the periods in which these great men filled the office of Attorney General; though one of them (Sir E. Coke) afterwards displayed great judicial virtues, and was the only one of the Judges, who, having declined giving an extra-

judicial opinion in the case of *Commendams*, refused to make submission to the Privy Council on his knees. Such were the men who were found incapable of resisting the allurements of their office. Yet Attorneys and Solicitors General are now the oracles called upon to resolve every difficulty and doubt, and, by their sole authority, to make or unmake the law.

"I have already observed, and again repeat, that I mean to insinuate nothing against the abilities or the characters of my hon. and learned Friends opposite. I believe that they are both well deserving of the favour which the Crown has been advised to confer on them. The recent appointment of my learned Friend, the Solicitor General in particular, is not less honourable to the Government than to himself, because he has been promoted not on account of his political principles, but from a conviction of his merits. When, therefore, I protest against the authority of the Attorney or Solicitor General in cases like the present, it is not from any feeling of objection to the particular individuals who now fill those offices. It is of the surrender of such a privilege into the hands of persons so situated, whoever they may be, that I feel it to be my duty to complain: Can the House believe it either safe or constitutional to allow doubts on the law, that affect the liberty of the subject, to be solved by His Majesty's lawyers? In looking back to former times, I only find ex-

amples to show the danger of such a practice. I will mention one,—which occurred in the reign of Charles the Second,—in the year, when Russell and Sydney were judicially murdered,—when the Law and Constitution were trampled under the feet of arbitrary power, and the forms of Justice were made to cover the greatest enormities. The Earl of Middleton, then Secretary of State, and not more famous than some of his successors for any scrupulous feeling, either as to his objects or the means of attaining them, wrote to the Lord Advocate of Scotland to ask, whether the Judges could receive the depositions of witnesses against State Prisoners, before their trials came on. The Lord Advocate of that day, who mentions the circumstance himself, was Sir George Mackenzie, a man celebrated for the perversion of great talents and legal knowledge. Such a man could not but have been sensible how contrary the opinion required of him was to the law; nevertheless, he answered, that, though the taking depositions might, in ordinary circumstances, prejudice the Judges; here, they could not be prejudiced!

"Having said thus much with respect to the Constitutional part of the question, involved in this Circular, I will now state to the House the course which I mean to pursue. I shall first propose, 'That an humble address be presented to His Royal Highness the Prince Regent, that he will be graciously pleased to give directions that there

be laid before this House a Copy of the Case upon which the opinion of the Attorney and Solicitor General of the date of the 24th of February last was taken.'—This Motion I shall follow up by two Resolutions; 1st, 'That it is highly prejudicial to the due administration of justice, for a Minister of the Crown to interfere with the Magistrates of the Country, in cases in which a discretion is supposed to be by Law vested in them, by recommending or suggesting to them how that discretion shall be exercised.'—2dly, 'That it tends to the subversion of justice, and is a dangerous extension of the prerogative, for a Minister of the Crown to take upon himself to declare in his official character to the Magistracy what he conceives to be the law of the land, and that such an exercise of authority is the more alarming, when the law so declared deeply affects the security of the subject and the liberty of the press, and is promulgated on no better authority than the opinions of the Law Officers of the Crown.'

'"I will now advert to the legal opinion of the Attorney and Solicitor General, on which the Circular of the noble Secretary is founded. After the maturest deliberation and inquiry, I feel myself bound to declare, that I do not think it correct or consistent with the principles of law.' In my opinion the Magistrates have no such authority as is stated to belong to them. I mean, however, to propose no resolution on this subject. There may

be some doubt, and I do not think, that it becomes this, or the other House, nor both together, to declare what the law is. In such a case all the branches of the Legislature must concur. But if neither House of Parliament separately nor both together, without the sanction of the Crown, can settle this point, what is to be thought of an executive Minister who has taken upon himself to do so?—Let the House consider the consequences which may attend the exercise of this authority so unconstitutionally declared to belong to the Magistrates. They will have the power of committing or holding to bail, before indictment found or information filed, every man who shall be charged on oath, at the instance of any informer, with having published a blasphemous or seditious libel. It is well known, too, that blasphemous or seditious words are equally punishable with writings of that character;—that the uttering of such expressions is considered as equivalent to publication; so that any man who publishes what another may think a blasphemous or seditious libel, or utters a blasphemous or seditious expression, may be sent to prison or held to bail, on the oath of any informer, however infamous, and by the command of any Magistrate, however prejudiced or indiscreet!—The tyranny of the reign of Charles the Second could not have been greater than this. It is folly to talk any longer of the freedom of the press. No paper can in future

criticise the measures of Ministers, or render itself, in any way, obnoxious to a busy Magistrate, without exposing its author to the danger of imprisonment or expense without trial. The Magistrate is not even bound to examine the publication which may be declared a libel. The oath of the informer is a sufficient ground for him to act upon. But what shall we say of the new dangers that beset this new law, from the system lately introduced of conducting the affairs of Government by spies and informers,—wretches, who may become the abettors of the very offence which they afterwards denounce;—who may insinuate themselves into the privacy of our domestic circles,—may listen to the unsuspicious conversation of our tables,—may urge on the ignorant and unwary to the use of intemperate and thoughtless expressions,—and may then, by an exaggerated statement of what has been said, have them imprisoned or held to bail at the pleasure of the Magistrate by whom they are employed?—When this new practice is considered, the mischief of this Circular exceeds all bounds.

"But the power of commitment is given not only in cases of blasphemous and seditious libels. The opinion comprehends libels on individuals,—libels of every description. I cannot believe, that the Attorney and Solicitor General, when they gave the opinion which has appeared under their signatures, could have been aware of its conse-

quences, or of the use which Ministers would make of it. They would otherwise, I am convinced, have been more guarded in their expressions.—They state at the commencement of their opinion, 'that a warrant may be issued to apprehend a party charged on oath for publishing a *Libel*, either by the Secretary of State, a Judge, or a Justice of the Peace;'—but, at the conclusion of their opinion, they qualify the word Libel, which, in the first instance, was general, with the epithets 'scandalous and seditious.' — This omission in the first, and addition in the second, instance, show a negligence, a precipitation, a want of inquiry and deliberation, of which the learned Gentlemen would not have been guilty, had they been aware that they were declaring the law for the whole kingdom.—As there is no distinction laid down between the kinds of libels which are comprehended in this new law, so neither are there any limits set to the power of the Magistrates in other respects. If they are suffered to commit for what is not a breach of the peace, any other misdemeanor will fall equally within the limits of their jurisdiction.

"So much for the importance of this assumed power, which, if it really be the law of the land, I am surprised, has never been called into action until now. In 1793 the Country was deluged with publications which excited the displeasure of Government, and which were accounted seditious;

yet it never entered into the mind of the Administration of that day to give the Magistrates such powers. I remember, that in Warwickshire, Derbyshire, and many other counties, men were prosecuted at the Sessions for libels most provoking to Government. Two individuals of the names of Binns and Jones were particularly obnoxious; but this weapon was never employed against them. Yet there was no want of zeal among the Magistrates. The two gentlemen who managed almost all the business of Birmingham were great Church and King's men. They had, of course, no disposition to favour seditious libellers, and would have received with pleasure any order of greater severity from Government. If, then, Magistrates overflowing with loyalty, and particularly inimical to libels of the kind to which I have alluded, never thought of committing or holding to bail for such offences,—if not even the Attorney General of that day, whom no one will charge with ignorance or remissness in the exercise of his duty, thought of telling them, that they possessed such a power, what is the just presumption,—what the fair inference to be drawn from such circumstances, but that none of those persons believed in the existence of such an authority?

"I am now about to enter into the *legal* part of the question; but I will not detain the House long. After the admirable argument on this sub-

ject which is now in print*, I should be inexcusable if I did. That argument, I believe, it is difficult to strengthen, and impossible to answer.—If the Magistrates possess the power of committing, or requiring bail in cases of libel, they must derive it from their Commission or from Statute. Their Commission is totally silent on the question†. The only part of it on which an interpret-

* Earl Grey's Speech in the House of Lords, May 12, 1817. —The argument contained in it is indeed "admirable," and cannot be too carefully studied by those who wish to understand this important question.

† The Commission consists of two clauses. The first, describing the power of the Justices out of Sessions, as conservators of the peace, authorizes them "to keep and cause to be kept all statutes and ordinances for the good of the peace, &c. to chastise all persons that offend against the form of these ordinances and statutes; and to cause to come before them or any of them, all those who have used threats, &c. to find security for the peace, &c.; and if they shall refuse such security, them in the King's prisons to cause to be safely kept."

The second clause relating exclusively to the jurisdiction of the Justices at the Sessions of the Peace, says, "We have also assigned you, and *every two or more of you*, to inquire the truth more fully, by oath of good and lawful men, of all manner of Felonies, Poisonings, Enchantments, Sorceries, Arts magic, *Trespasses*, Forestallings, Regratings, Ingrossings, and Extortions whatsoever; and of all and singular other Crimes and Offences, of which the Justices of our Peace may or ought lawfully to inquire, &c. and to hear and determine all and singular the Felonies, Trespasses, &c. &c. according to the Laws and Statutes of England."

The form of the Commission as it now stands was settled by

ation at all favourable to the existence of this power can be fixed, is that which regards *Trespasses;* but the whole tenour of the passage shows that the Trespasses there meant are Trespasses *against the peace.* This too is evidently the construction which has been put upon it by Serjeant Hawkins, in his Pleas of the Crown, where he states, that 'any Justice of the Peace may commit in cases of Treason, Felony, Præmunire, or any other offence *against the peace**.' If this power were not so limited, it would comprehend every species of trespass, as well as libel.

"Lord Coke has said,—not, as it is generally supposed, that, Justices have no power of commitment in cases of Felony, but,—that they did not possess this power at Common Law, having derived it from the statute of Philip and Mary; and he cites, in proof of his assertion, a case determined at Westminster in the 14th year of the reign of Henry VIII.† The decision is reported

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the Judges in the year 1590, upon due perusal and consideration (as Sir E. Coke assures us) of the former Commission and of the repealed Statutes with which it was incumbered. 4 Inst. 171.

* Pleas of the Crown, Book II. p. 84.

† Sir E. Coke, after referring to *Magna Charta*, c. 29, and Stat. 42 Ed. III. c. 3, and citing the resolution of the Court, viz. of Brudnell, Pollard, Broke, and Fitzherbert, in 14 Hen. VIII. to show, that at common law "a Justice of Peace could not make a Warrant to take a man for Felony, unless he be indicted thereof, &c.,"—goes on to say, "*Sed distinguenda sunt*

by Broke, who was one of the Judges on the occasion, in his Abridgment, than which there cannot be a better legal authority. Such, then, were the doubts of some of our profoundest lawyers in ancient times as to the right of commitment in cases of Felony and Treason, at Common Law. It has been reserved for the wisdom of the present day to discover that a power, the legal existence of which was thus questioned even in offences of so high a nature, may be now exercised against every petty trespass within the cognizance of the Sessions.

"The next authority to which I shall refer is that of Chief Justice Hale. He says, that a Justice of the Peace may,' before indictment found,

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tempora, et concordabis leges: for since the Statutes of 1 & 2 Ph. & Mar. cap. 13; and 2 & 3 Ph. & Mar. cap. 10 (the words whereof be, That the said Justices, or one of them, being of the quorum, when any such prisoner is brought before them for any Manslaughter or Felony, shall take examination, &c.), if any person be charged with any manner of Felony, and information be given to a Justice of the Peace of the Felony or suspicion of Felony, and he feareth that the King's peace may be broken in apprehending of him, the said Justice may make a Warrant to the Constable of the town to see the King's peace kept in the apprehending and bringing of the party charged with or suspected of the Felony, before him; and the party that giveth the information of his knowledge or suspicion to be present, and arrest the delinquent: and in this manner it is implied and intended by the said Statutes for the prisoner to be brought before him; and this (as we take it) agreeth with the common use and observance ever since those Statutes." 4 Inst. 177.

issue his Warrant to apprehend and imprison any one charged with Felony or other breach of the peace; and he disagrees with Lord Coke so far as to think that, this power was not within the restraint of Magna Charta and the Acts of Edward the Third, and might, therefore, have been exercised before the Statute of Philip and Mary*. I know, that it will be urged in opposition to my argument, that the same learned Judge, in speaking of the objects of such Warrants, in another part of his work, has included 'persons charged with *crimes* within the cognizance of the Sessions of the peace†.—But to what crimes does he refer? —To Felonies,—as is evident not only from the title of the chapter, but from its whole context and subject-matter. He could not have meant here to include, for he has not even adverted to, any offences of a minor nature. He was treating of a higher class of crimes, and endeavouring, in contradiction to Lord Coke, whose opinion he thought 'two strait-laced' on the subject, to show that the power of commitment in such cases had always belonged to Magistrates. It was the constant and universal practice, he has added. Now can this remark be made to apply to all Trespasses indictable at the Sessions? Will it be pretended that it was then the practice to commit and hold

* Hale's Pleas of the Crown, vol. ii. p. 108, 109, &c.

† Pleas of the Crown, vol. i. p. 579.

to bail for such alleged offences? Will it be pretended that it was the practice, in cases of Libel, —that it had ever been the practice, even in the most despotic times, when the severest penalties were inflicted by prejudiced and corrupt Judges,—when ruinous fines,—the loss of ears, —perpetual exile or imprisonment, were the ordinary judgments by which the Court of Star Chamber endeavoured to maintain its dominion over the press*?

"I know it was held by a majority of the Judges in the case of the Seven Bishops, that a Libel not only tended to a breach of the peace, but was in itself an actual breach, and that a warrant of commitment, therefore, on refusal to give bail, might be issued against the offenders. But that case, I repeat in the language of Lord Cam-

* The sentence against *Bastwicke, Burton*, and *Prynne*, was, that they should lose their ears,—be fined 5000*l.* each,—and be imprisoned for life in three remote parts of the kingdom.—In addition to all this *Mr. Prynne* was condemned (at the particular instance of Sir *John Finch*) to be stigmatized in the cheeks with two letters (S and L) for Seditious Libeller. Such was the conduct of the Judges of the Star Chamber in the time of Charles the First. In the reign of Charles the Second, punishments not indeed so inhuman, but equally arbitrary and illegal, were inflicted by the Court of King's Bench. *Barnardiston*, for reflections on the Government, contained in *private* letters, was sentenced to pay 10,000*l.* and *Dutton Colt*, for words spoken of the Duke of York, was fined 100,000*l.*!—These things ought never to be forgotten.

den, is *not* law*. A Libel is not a breach of the peace, and there is no book—no competent authority in law to show that it was ever considered so, or that it had been the practice to require surety of the peace or bail from persons charged with it. The persecution of Dover and Brewster in 1665 will hardly be adduced as a precedent on this occasion. They suffered indeed, but it was under the sanction of a particular statute†,—a tyrannical law, which (thank Heaven!) no longer exists, and which, though it had been still in force, would not have applied to the present question. The power of commitment possessed by Magistrates under that Act, did not refer to Libels, but to unlicensed works. It was a power too, in the exercise of which they had no discretion. The Statute gave authority to the messengers of the King's Chamber by warrant under his sign manual, or under the hand of a Secretary of State, or of the Master or Wardens of the Stationers' Company, to enter at any time they might think fit, the houses and shops of suspected persons,—to exa-

* Howel's State Trials, vol. xix. p. 990.

† 13 & 14 Car. II. c. 33.—This Act was at first passed for two years, and after having been further continued by the 16 Car. II. c. 8, expired in 1679.—It was subsequently revived by 1 Jac. II. c. 17, and remained in force until 1692.—It was then renewed for two years longer, by Stat. 4 W. & M. c. 24; and, notwithstanding all the attempts which were made to continue it, finally expired in 1694.

mine all books contained therein,—to seize such as were not licensed,—and to bring the several printers or publishers before any one or more Justices of the Peace, who were required, in all such cases, to commit the offenders to prison.

"Undoubtedly there are offences, not amounting to breaches of the peace, for which Magistrates may commit or hold to bail before indictment *. But the exception only proves the rule; for if, as it is now pretended, they had by ancient law authority to commit for *all* offences within the cognizance of Sessions, whence, I ask, could arise the necessity of express Statutes to sanction its exercise in *particular* instances?—If, too, the power assumed in case of libel belonged of right to *all* Justices as conservators of the peace, to what purpose, I would further ask, has an Act been passed to confer it upon any *one* class of Magistrates,—namely, on the Judges of the Court of King's Bench †?—With respect to the authorities relied on by the Law Officers of the Crown, they amount to nothing. Even admitting, which I am by no means disposed to do, that the case of Mr. Wilkes is not an authority against them ‡, what

* See Earl Grey's observations on this part of the question, in the report of his Speech, p. 44, 45.

† 48 Geo. III. c. 58.

‡ Lord Camden concludes his judgment in the case of Mr. Wilkes with these words: "We are all of opinion that a Libel is

remains in support of their opinion?—The opinion of a former Attorney General, and the modern, uncanvassed and uncontested, cases of Spence and Hogg arising out of it*!—Why, even general warrants rested on a better foundation. However ar-

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not a breach of the peace. It tends to the breach of the peace, and that is the utmost.—1 Lev. 139. But that which only tends to the breach of the peace, cannot be a breach of it. Suppose a Libel to be a breach of the peace, yet I think it cannot exclude privilege; *because, I cannot find, that a Libeller is bound to find surety of the peace,* in any book whatever, nor ever was, in any case, except one, *viz.* the case of the Seven Bishops, where three Judges said, that surety of the peace was required in the case of a Libel. Judge Powel, the only honest man of the four Judges, dissented; and I am bold to be of his opinion, and to say, that case is *not* law. But it shows the miserable condition of the state at that time. *Upon the whole, it is absurd to require surety of the peace or bail in the case of a Libeller, and therefore Mr. Wilkes must be discharged from his imprisonment.*"—Howel's State Trials, vol. xix. p. 990.

* Thomas Spence was in the year 1801 held to bail, by Mr. Ford, a Magistrate of the County of Middlesex, for his personal appearance in the King's Bench, to answer the charge of having published a pamphlet, entitled, "The Restoration of Society to its natural State." He was afterwards tried, convicted, and punished on informatton filed against him by the Attorney General, Sir Edward Law.

Alexander Hogg in the following year was, at the instance of the same Law Officer, held to bail in the same manner by the Lord Mayor, for selling a work entitled "Trials for Adultery." An information was filed against him; but having suffered judgment to go by default, and having made an affidavit that he had stopped the sale of the book, he was not called up for sentence.

bitrary and inconsistent with the principles of the Law and the Constitution, they could at least plead some small degree of antiquity in their favour*. But as to the present case,—as to the power now stated to belong to Magistrates, I am at a loss to discover any usage or authority whatsoever to sanction its exercise. Indeed, until I saw the opinion of the Attorney and Solicitor General, and the Circular Letter of the Secretary of State, I did not know that such a power was ever supposed to exist. I had enjoyed many opportunities of seeing the practice of Sessions; I had conversed with many learned Friends well acquainted with the powers of Magistrates; but I never before heard of any thing like the doctrine now advanced; and if it is the law of the land, which I do not believe, no time ought to be lost by the Legislature in altering it.

"Sir, in bringing forward the present Motion I have been actuated by no feeling of hostility towards the noble Lord, whose conduct is the subject of it. I entertain towards him no personal disrespect. In any intercourse which I may have had with him, I have been treated with candour, and should be disposed to show him gratitude rather than opposition, could I allow any thing like private feeling to interfere with my sense of public

* See Howel's State Trials, vol. xix. p. 1027—1067.

duty. It is not, however, to the conduct of the noble Secretary alone, that, I conceive, my censure will apply. I believe the whole Administration to be culpable for any illegality that has been committed,—particularly, the noble Lord at the head of the legal Administration of the Country. The doctrines now justified, and the conduct now pursued, must, in my opinion, if not counteracted, operate ultimately to the destruction of every thing that is valuable in our Laws and Constitution. I will always raise my voice against such pernicious innovations; and if, in after-times, when this country shall be placed in that different situation to which it is hastening, and the liberties which our ancestors transmitted to us, shall be no longer enjoyed by our posterity, it shall become a question with the curious, how this change from freedom to arbitrary power began,—what were the first symptoms of our decay, and what the first inroads on the Constitution,—it will then be seen that there were some persons, who were not insensible to the signs of approaching slavery, —who denounced the tendency of arbitrary proceedings and warned their countrymen against them. [*Hear, hear, from Mr. Yorke.*] The right hon. Gentleman, who appears to dissent from this opinion, is a descendant of men, who were an honour to the profession of the Law, and who would have beheld these precedents in a very different light from that in which he seems to view

them. If those, who are to follow us, make as rapid progress in advancing from the point at which we now are, as we have done in advancing from that where our predecessors stood, the season for the melancholy inquiry, to which I have alluded, is not far distant, and the Country may decline into slavery without being aware of it.

"I know, Sir, that the noble Lord, whose official conduct I have now brought before the House, far from qualifying or retracting, is disposed to glory in what he has done.—'If I am accused' (he says)' 'of having used my best endeavours to stop the progress of blasphemy and sedition, I plead guilty to the charge, and whilst I live, shall be ever proud to have such a charge brought against me!'—Such, however, let the noble Lord recollect, has been the argument of bigots and tyrants in all ages. Such was the boast of the Duke of Alva,—of Philip the Second, and his sanguinary Consort, when without remorse they tortured thousands of their fellow-creatures,—when in their unrelenting zeal they spared neither age, sex, nor condition. They too sought for a cover of their cruelties in pretexts of religion, and believed themselves, or would have persuaded others, that they were only actuated by a pious desire to extirpate heresy and irreligion!—Can the noble Lord or can any one really believe, that religion is in danger,—that it can be in danger at a time,

when, as my hon. Friend now near me * knows, a greater portion of the people are imbued with its principles than perhaps at any former period? Do we imagine that irreligion and blasphemy, if they exist, can be suppressed by the means proposed?—Or must we not rather see, that the object of Ministers in making such a pretence, is to gain over a party which cannot otherwise be induced to sanction their measures, and that they are injuring the cause of genuine morals and religion by offering it such hypocritical protection?

"Sir, I shall now conclude by moving my proposed Address for a Copy of the Case which has been submitted to the Law Officers of the Crown. Without it, we are unable to know the precise ground on which the opinion is founded,—whether it was fairly asked, and whether they had time to consult and to consider the legal and constitutional question in all its bearings."

On the Motion being put a Debate ensued, which was supported, on the one side, by Sir William Burroughs, Mr. Courtenay, Sir Charles Monck, and Sir Francis Burdett,—and, on the other, by the Attorney and Solicitor General, Mr. Hiley Addington, and Mr. Charles Wynn.—Sir Samuel Romilly replied, after which the House divided:—

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* Mr. Wilberforce.

Ayes - - - - - - - - -	49
Noes - - - - - - - - -	157
Majority against the Motion	108

THE ADDRESS.

January 27th, 1818.

THE Speech of the Prince Regent to the two Houses of Parliament having been read by the Speaker, the usual Address was moved by Mr. Wodehouse and seconded by Mr. Windham Quin. After some observations from Lord Althorp and the Attorney General, Sir Samuel Romilly rose and said, that, agreeing, as he did, in every part of the Address as far as he was able to understand it by hearing it read, he should be most sorry to say any thing that might have the effect of unnecessarily interrupting the harmony of the House. There was one subject alone, which, if any occurrence could create harmony, would cause it to prevail on that occasion. If ever there was an event of distress and calamity, it was that on which they had then to offer their condolence to the Throne,—the loss of the illustrious Princess

who had engrossed the affections, and engaged the hopes of the nation.

"This alone" (continued Sir Samuel Romilly) "would induce me, even if I had not been otherwise disposed, to abstain from every topic not essentially necessary on the present occasion. Some occurrences, however, have taken place during the recess, which, though not alluded to in the Address, are of such a nature as to require the attention of the House. Amongst these are the late Trials, on which a noble Lord (Althorp), in the exercise of his Parliamentary privileges and duty, has so justly animadverted. Those prosecutions are of the utmost importance, as forming a part of the present system of Government. They are to be considered, not as insulated events, but as events intimately connected with the measures which have been so lately sanctioned by this House. They throw great light on the extraordinary Act, which has deprived us of the most valuable part of the Constitution.

"Sir, the Parliament has been now called together under a public calamity; for what but a calamity must I consider the suspension of the best parts of the Constitution? I will say nothing of the promise which we have received, of the immediate repeal of that measure. I only advert to the occurrences which throw light on the grounds on which the suspension was passed,—a measure in which, as it seems to me, Parliament has pro-

ceeded altogether in the dark. The Committees in this House, and in the House of Lords, have given their reasons for not disclosing all the facts on which they had founded their judgment. Some of the facts, they said, would compromise the safety of the individuals who communicated them, whilst others might have an undue influence on the judicial investigations which were then stated to be in progress. Facts, however, have since occurred to show the weight which was due to the general assertions contained in these Reports. I allude to the proceedings at Manchester, at Derby, and in Scotland. All the evidence in all the transactions which have been made the subject of judicial inquiry, has only tended to destroy the foundations on which we proceeded in the last Session.—In the last Report of the Secret Committee the transactions at Manchester occupied the foreground. In both the Reports it was stated that a treasonable conspiracy of the most atrocious kind existed there,—that it had been in agitation amongst the idle and disaffected to attack the barracks, and to burn the manufactories for the sole purpose of destroying the means of work, and adding by the general distress to the numbers of those who would engage in their desperate plans. In the Lords' Report, the phrase was '*to make Manchester a second Moscow.*' It was stated in those Reports, that some of the conspirators were

in custody;—but have any of them been brought to trial? Have any of them been even indicted for a capital offence? Or how have they been proceeded against?—They have been indicted for misdemeanors, which, — to prevent, as it would seem, the disclosure of the real facts by immediate trial,—were all removed by *certiorari* into the Court of King's Bench. At the next assizes what occurred? — Why, the learned Gentleman who acted for the Attorney General at Lancaster, said that he should produce no evidence against the prisoners.—It is stated, that the prosecutions were discontinued, because every thing was tranquil, and because Ministers were willing to show their clemency.—Sir, the Government knew from the very beginning that no evidence could be brought against these unhappy creatures so as to convict them. They, therefore, made a merit of necessity, and took credit to themselves for humanity, in not attempting to produce evidence which never existed. If this was, as I contend it to have been, the case,—if there was no truth in the statements of the Report as to the atrocious measures of destruction meditated by these men, where is the boasted clemency of Ministers?—If, on the contrary, as it is pretended, these charges are true;—if the persons accused are in reality guilty of having conspired to burn factories, to attack barracks, and to create a revolution, why have

they thus been suffered to escape with impunity? Where was the necessity,—where the policy or justice of discharging them without punishment or even trial?

"These daring men, these alleged criminals, were discharged in September. Such was the tranquillity of the Country at that period, that it was deemed unnecessary — notwithstanding the undoubted evidence which was said to exist as to the atrocious nature of their designs—to subject these persons even to the ordinary modes of legal trial! But what became of others against whom no such charges had been insinuated? What was the fate of those minor offenders, who without any specific charges alleged against them, had been arrested under the suspension of the Habeas Corpus? They at least should have been allowed to participate in that amnesty which the indulgence of Government had so liberally extended to the most outrageous criminals. Whilst the latter were thus absolved from every penalty, it is hardly to be credited that the former should, without even the pretence of legal evidence against them, have been detained for months in prison!

"Sir, the next transactions, which throw a light upon the late measures of Government, are those which have occurred in Scotland; but into them I will not enter at any length, as they are to be made the subject of a separate Motion by a noble Lord behind me (Lord A. Hamilton). I trust,

however, that the House has not forgotten the speech of the Lord Advocate on a former occasion, and the oath which he then read with so much effect. The person charged with having administered that oath (though proceeded against on three several indictments, so determined were his prosecutors to prevent the possibility of escape), has been at last acquitted. I will say nothing at present of the extraordinary, unprecedented—unprecedented, I am confident, in England, and, I believe, even in Scotland—the unprecedented attempts to prevail on another prisoner to give evidence against the accused *.

"I have next, Sir, to request the attention of the House to the proceedings at Derby. I do not mean to call in question their result, or to decide whether the prisoners were properly or improperly convicted of the crime of High Treason.—Whether the argument on the law of the case and on the enlarged construction to be given to the Riot Act, as urged with such consummate ability by their counsel, was erroneous or not; the prisoners were still guilty of a capital offence. Brandreth had committed murder, and his colleagues, as aiders and abettors of the crime, were all equally guilty in the eye of the law.—But the proceedings

* See the note at the end of Sir S. Romilly's Speech on the State Trials in Scotland.

on these trials, more than any other, have pronounced a full condemnation on the suspension of the Habeas Corpus. In the first place, that Act had been suspended five months, yet it did not prevent those crimes. It is evident, too, how much care was taken on those trials to conceal the truth. No evidence of any transaction anterior to the 8th of June, was suffered to transpire; although the Attorney General in his opening speech had distinctly stated that he could prove that the conspirators had held previous meetings in pursuance of their plans. Sir, if the officers of the Crown were in possession of such evidence, they were bound to produce it. The public had a right to expect it. It was not merely the guilt or innocence of the individuals accused which was in issue, but the credit due to Government. The character of Ministers—the character of the two Houses of Parliament was at stake. Yet no evidence respecting those meetings was given!—Sir, there is from this circumstance alone a presumption,—a presumption which all the information which I have received upon the subject only tends to confirm,—that the whole of the insurrection was the work of persons sent out by the Government,—not indeed for that specific purpose,—not with a view, on the part of their employers, of fomenting disaffection and riot,—but, as emissaries of sedition from clubs which never existed. The extraordinary exertions of the Crown Lawyers to

keep back the earliest circumstances of the case, have prevented us from ascertaining how far the information may be correct. In my conscience, however, I believe it. The Attorney General was repeatedly called on by the counsel for the prisoners to produce the evidence to which I have alluded. He was called upon to do so, on the first,—on the second,—and on the third trial; yet he persevered in the course which he had first adopted, and in spite of the suspicion necessarily incident to such a proceeding, has chosen to leave every transaction prior to the 8th of June, in obscurity.

"Here too we have a specimen of the great advantages which were promised to the Country from the Suspension of the Habeas Corpus. It was often asked during the discussion of the measure in this House, what use was to be made of the extraordinary powers thus required by Ministers? To this it was invariably answered, that, when a conspiracy was foreseen, or an insurrection was on the point of breaking out, the leaders might be apprehended, and their mischievous intentions at once defeated. But can this have been any thing more than a mere pretext on the part of Ministers? They had received information of Brandreth's designs, — they were aware of all his movements;—yet they did not seize him. No. He remained at liberty; he was suffered to go on, until he had effected all the

mischief in his power. Thus on the very occasion, for which this measure, according to the arguments of its advocates, was so happily calculated,—at the only moment when its exertion could have been attended with any possible advantage, it was then for the first time suffered to lie dormant and useless.

" Another subject to which, as connected with the general conduct of the Administration since the last Session, I think it my duty to advert, is the case of Mr. Hone. The publications, for the suppression of which the proceedings against him were said to have been instituted, compose a part of the evidence on which the liberties of the Country have been suspended. The House will remember the horror expressed by the late Attorney General (Sir William Garrow) at receiving one of these Parodies;—how monstrously blasphemous and profane he declared it to be;—how,—on being called on to read it,—he protested that he could never be guilty of any thing so abominable as to read such a flagitious libel in a British House of Commons; but that he would seal it up and lay it on the table, and if any one chose to break the seal,' the consequence should be on his head!—Yet, notwithstanding all this delicacy and regard for the public morals expressed by the learned Gentleman, his successor has proceeded to multiply copies of these Parodies by thousands, and to scatter them in profusion over all parts of

the country. Before he commenced his prosecutions they had disappeared,—they had been suppressed by their author, and withdrawn altogether from circulation. It was stated by a witness on the trial of Mr. Hone, that he could not procure a copy by the most diligent search; and that a guinea was offered in vain for a work, which had been originally published at two pence. These Parodies, therefore, had been withdrawn from the public notice,—had entirely disappeared, when my hon. and learned Friend, in his anxious endeavours to protect religion and morality, thought proper to publish a new edition of them. Under the pretence of preventing their publication, he has given them a permanent place in the history of the Country,—he has made them a part of its judicial annals,—he has given occasion to the editor to collect all the Parodies which had been published in former ages,—to print them in a convenient little volume, and to hand them down to posterity. And why has this been done? Why were the prosecutions of Mr. Hone persisted in, if, according to the language held to the prisoners at Lancaster, the evil sought to be suppressed, was previously at an end, and the state of the Country had become so tranquil and so satisfactory as to enable the Administration to exercise with safety the Royal clemency?—But the clemency, for which the officers of the Crown have

been so desirous to take credit, is reserved only for those whom they see no chance of convicting.

"Sir, I do not mean to defend the publications in question. They are most offensive and reprehensible,—though they do not amount to blasphemy, as they have been said to do elsewhere. They were evidently composed for a political object, and not for the purpose of attacking religion; but whatever might have been their object, their composition is most offensive and indefensible. To treat with levity the religion of the Country,—to hold up sacred subjects to ridicule, by employing their language to promote political objects,—and to inspire the minds of the people with a contempt for those doctrines, which may be respected for their importance to public morals, even by those who do not believe their divine authenticity, is conduct that deserves the highest reprehension. My hon. and learned Friend (the Attorney General) cannot feel greater disapprobation of such publications than I do;—still I am unable to discover a justification of the course which he has pursued on this occasion. I am willing to believe, that he was not stimulated to these prosecutions by vindictive motives; and yet I scarcely know on what other grounds to explain his conduct. If the proceedings were not vindictive, what were they?—For what purpose were they instituted?—Were they for prevention? No—the publications had been stopped long be-

fore my learned Friend came forward to suppress them. This injudicious attempt has brought them again into public notice, and has given them an infinitely wider currency than they could have obtained in their original state, with a great mass of concealed, forgotten, and unknown Parodies attached to them.

"I cannot believe that my learned Friend could have contemplated these consequences; and yet, how could they have escaped him? What else was to be expected from such prosecutions but the revival of obsolete and unknown Parodies, and the circulation of them to an infinitely greater extent than they could ever possibly have attained by any other means?—But notwithstanding this natural anticipation my learned Friend persevered in the prosecution; nay, not satisfied with the effects of one prosecution, he has gone on with two others, as if his only object had been to give currency to such compositions, and to procure still further supplies of them for the public amusement.—Why was the second prosecution persisted in by my learned Friend, after he had failed in obtaining a verdict on the first? Because, said he, the second Parody was as much a libel as the first, and to have relinquished the prosecution would have been a dereliction of his public duty. But is it the duty of an Attorney General to prosecute every thing that is prosecutable?—To prosecute all Parodies?—If this should be the case, a

heavier obligation will be imposed upon him, than he is perhaps aware of. He may have to carry his prosecutions into other quarters. My hon. and learned Friend must look around him.

"But instead of three prosecutions, in the case of Mr. Hone, would not one have been sufficient? Or should not, at least, the verdicts given in the two former trials, have taught the Government what was to be expected in the third? In the third, however, they proceeded, although the Court of King's Bench (in a similar case where the Defendant had thrown himself on the tender mercies of the Attorney General) had considered the subject of this prosecution as far less offensive than those of the two former*. The least cri-

* The Parodies for which Mr. Hone was prosecuted were entitled, "The late John Wilkes's Catechism of a Ministerial Member"—"The Political Litany"—and "The Sinecurist's Creed," which was a Parody on the *Athanasian Creed.* For the publication of these three Parodies he was three times tried and acquitted by three special Juries. The first trial took place before Mr. Justice Abbot, on the 18th of December, 1817; the second and third before Lord Ellenborough on the two following days. The argument of the Attorney General on these several trials was in substance, that Christianity was part of the Common Law of England, and that the obvious and necessary effect of these Parodies was to bring that religion into contempt. The Defendant, therefore, as the publisher of them, was guilty of most impious and profane libels.—On the other hand, Mr. Hone contended, that the Parodies were written and published solely for political purposes, and not with any intention of exciting impiety and degrading the Christian religion. The Jury, he ob-

minal of the Parodies was the last prosecuted,—and the prosecution was thus persevered in, after

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served, and not the Attorney General or the Judge, were to decide on what was, or was not, Libel; and he called upon them to return a verdict, *not* on the *effect* which the publication of these Parodies might have produced out of doors, but on the *intention* with which they were written and published.—He then proceeded to show, that works of a similar nature had been published in all ages;—that Martin Luther, and some of the most eminent divines,—that Lord Somers, Mr. Burke, and several of our most distinguished lawyers and statesmen,—that one of the present Members of the Cabinet, one of his prosecutors (the Right Hon. George Canning), had written and published Parodies on various parts of the Scriptures,—not with an impious and profane intention, but to serve their own particular views. None of these persons had been ever prosecuted.—With respect to himself—he should call evidence to prove, that, *long before he was prosecuted*, he had stopped the sale of these Parodies, and had even refused a guinea for a copy of one of them. This he had done, not from any doubt at the time about the legality of such publications, but to satisfy the scruples of some respectable persons who had objected to their nature and tendency.—Under all these circumstances, following as he had only done, the great examples which had been set him upon this subject,—having,—the moment he was convinced of the impropriety of such works,—withdrawn them from circulation,—could he be said to be guilty of the crime alleged against him? Could the Jury,—looking at the work itself, and taking into consideration the circumstances connected with it,—say that it was the *intention* of the Defendant, *not* to ridicule Ministerial Members, but to excite impiety and bring religion into contempt?—The verdicts of acquittal were received with the loudest acclamations, and a sum of nearly £3000 has been since raised by public subscription, for the purpose of re-establishing Mr. Hone in the business of a Bookseller.

With respect to the other case to which Sir Samuel Romilly

a double failure,—because,—according to the explanation of my learned Friend himself, — he thought it would have manifested weakness in him to relinquish it.—I mean nothing personal to the Attorney General. He is to be considered only as an agent of the Government, on whose views, and at whose instigation, he has doubtless acted in bringing on the third trial.

"What has been the object of Government in these prosecutions? To protect the interests, and vindicate the cause of religion?—No, certainly. This could not have been among the objects which they had in view, or they would not have taken such effectual measures to defeat it.—The fact, I believe, is, that it was to avenge their own personal quarrels, that Ministers instituted and persevered in these prosecutions. They felt sore at having had their conduct and characters exposed to public view,—at having been derided as impolitic Statesmen, and improvident treasurers of the public

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has here alluded,—it was that of a Mr. James Williams, a stationer at Portsea. Two informations had been filed against him for printing and publishing two Parodies,—one on the Litany,—the other on the Athanasian Creed. He suffered judgment to go by default in both, and was sentenced—for the *first* Parody, to be imprisoned for eight calendar months, to pay a fine of 100*l.* and to give security for his good behaviour for five years, himself in 300*l.* and two sureties in 150*l.* each. For the *second* offence, —the Parody on the Athanasian Creed, he was ordered to be imprisoned for four months.

money, in a language familiar to all ears and capacities. This has been one of the motives of their conduct. Another object, which I believe they had in view, is of a still worse nature. It is one in which I trust that they may be for ever defeated. I believe in my conscience that Ministers, by urging these prosecutions in the face of repeated failures, wished to bring the Trial by Jury—that great safeguard of our rights—into discredit and contempt, that they might, by the assistance of a religious cry, be enabled with less opposition to lay restraints upon the press. I cannot forget, that, in those vehicles of public opinion, which are under the control and guidance of Government, such a project has been broached, and I am convinced, that the destruction of that confidence generally reposed in Juries is a preparatory part of the plan. If this was their object, it has been happily defeated by the firmness of the Juries, combined with the good sense, public spirit, and active vigilance of the Country.

"The Trial by Jury, Sir, is one of the greatest bulwarks of our rights; and I should scarcely have believed it possible, that any Ministers, under the House of Brunswick, could have entertained the idea or the wish to bring it into contempt, if I had not witnessed in the conduct of the present Government, so many circumstances, consistent only with such a project. Sir, I cannot forget the course which they have been so

systematically pursuing,—the inroads which they have made, step by step, on the most essential parts of the Constitution. I cannot forget that they are the same Ministers who have promulgated new laws, on the authority of the legal advisers of the Crown, — who have interfered with the duties, and placed the liberty of the press under the control, of the local Magistracy. I cannot forget that they are the same Ministers who have suspended the Act of Habeas Corpus twice in a period of profound peace, — who have refused to divulge even the names of the unfortunate persons imprisoned under it,—and who in defiance of law,—in violation of an express Act of Parliament, have dared to interpose the Royal prerogative between them and the visiting Magistrates of the counties in which they were confined. I cannot forget that they are the same Ministers, who after confining men for several months in prison without a charge, have dismissed them without a trial;—who, after requiring them to acknowledge they had done wrong by giving security for the peace, have, on their refusal to give such security, allowed them to depart without it,—who, in fine, conscious of the illegality of their proceedings, and the severe animadversions to which they have thereby exposed themselves, now trust to a Bill of Indemnity to cover their conduct.

"If, Sir, their object in the repeated prosecu-

tions of Mr. Hone, was what I have stated, and what the whole tenour of their conduct justifies me in believing, I am happy to see, that they have been defeated by the good sense and public principles of the People. If such plans were formed, they have now proved abortive, and the religious cry by which Ministers got into office, has not, on this occasion, turned to their advantage."

Sir Samuel Romilly concluded, by saying, that he had thus taken the earliest opportunity of calling the attention of the House to these subjects, and that he should have reckoned silence on such an occasion a dereliction of his public duty.

SECRET COMMITTEE.

February 5th, 1818.

Lord Castlereagh moved that all the papers relative to the state of the Country, then lying upon the table of the House, should be referred to a Secret Committee chosen by ballot. After Mr. Tierney and Mr. F. Douglas had spoken against, and Mr. Bragge Bathurst in support of, the Motion, Sir Samuel Romilly rose, and said, that he perfectly concurred with the noble Lord in the necessity, although he totally differed from him with

regard to the nature, of the proposed Inquiry. What prospect could be entertained of any effective inquiry from such a Committee as that which was about to be constituted? — The proposed mode of proceeding was altogether unprecedented. There was no instance upon record of the reference of papers to a Committee, but with a view to some measure of intended legislation. The noble Lord, however, had stated that no legislative measure was in contemplation. The Lords Commissioners representing the Crown on the first day of the Session had in the speech on that occasion declared the same thing. They had stated that tranquillity was restored, and that nothing more was wanting to maintain it than the persevering vigilance of the Magistracy, in the performance of their duties. This had been followed by a notice from Ministers of the intended repeal of the Habeas Corpus Suspension Act, and by the liberation, and discharge from their recognizances of the persons arrested under it, on the Motion of the Attorney General. The only object then of appointing a Committee must be to lay the groundwork of a Bill of Indemnity, which it was thought expedient to get preceded by at least the appearance of an inquiry, in the existing state of public opinion.

"If any thing" (continued Sir Samuel Romilly) "could surprise me in the conduct or language of Ministers, I should have been sur-

prised at hearing the noble Lord describe a Bill of Indemnity as a sort of natural and necessary consequence, arising out of the important trust which has been reposed in the servants of the Crown. Let those who have supported the Act for suspending the Habeas Corpus, contrast this language with the language held by the noble Lord and his colleagues when that measure was first proposed. The House was then told of the anxiety and fears of Ministers,—of their reluctance to undergo the painful burden about to be imposed upon them,—of the awful responsibility which would attend the exercise of such a trust!—Now, however, when the administration of their trust is to be considered, the noble Lord informs the House, that a Bill of Indemnity to Ministers must always follow the suspension of the Constitution as a matter of course.—What too was the language of the same persons during the continuance of the Suspension? They were then continually talking of the moderation and mildness with which the new law was executed, and defying even the possibility of a charge against themselves. Now, the noble Lord tells us of the hardship of their being obliged to defend themselves in Courts of Justice against every individual who may complain of their conduct, and the necessity of taking shelter under an Act of Indemnity!

"Sir, I hope that the House will now see the necessity of an ample investigation; that it

will not suffer itself again to be deluded; that it will inquire when the danger, — *if* danger there was to the State, — has ceased to exist; and whether Parliament ought not to have been assembled at an earlier period. It is of great importance that an inquiry should be instituted for the purpose of ascertaining what was the state of the Country in the month of September no less than in that of June. Although tranquillity—even according to the admission of Ministers themselves—was restored in September; although, in the confidence of that tranquillity, persons, who had been six months imprisoned under the most serious charges, were set at liberty without trial* — Parliament was not called together. It was not until January, that Ministers thought proper to adopt that measure,—thus using their own discretion, instead of appealing to the judgment of Parliament, with respect to the continuance of those extraordinary powers with which, unhappily for the best interests of the Country, they had been armed.

"It is likewise, I think, important that the grounds on which the Suspension Act was passed should be re-examined. It is necessary that we should have some further information as to the actual state of the Country at that period. The character of the evidence, on which the Reports of the two former Committees of this House were

* See Vol. II. p. 263.

founded, is notorious. The only witnesses examined—as it is now admitted—were spies and informers,—persons who availing themselves of the distress of the times had gone, from place to place, to instil disaffection amongst the ignorant and unwary,—calling upon a starving population to vindicate their rights, and to join the thousands and tens of thousands whom they represented as ready to rise against their oppressors in every part of the empire! These were the witnesses, who are now acknowledged to have been examined before the Committees of Parliament, for the purpose of establishing plots, which (if they any where existed to the extent described) had been planned or excited by the very persons who thus denounced them!

"Let me entreat the House to consider the serious responsibility which it has incurred in these transactions. Let me entreat the House to reflect on the account which it must render to its Constituents and to the Country, if it shall be found to have persevered in thus lending its sanction to a system of delusion and injustice. Do we deceive ourselves with a notion, that the mere appointment of another Committee by ballot will satisfy the minds of the people? Do we imagine that it is possible for them not to discover the object of Ministers in the appointment of a Committee, thus nominated by themselves?—That it is to furnish grounds for a Bill of Indemnity to protect them from the legal consequences of abused authority?

—To discover the absurdity of the course which we are now required to adopt, it is sufficient only to look at the practice of the House in other instances. How, for example, should we act, if one of our Members, unconnected with the Government, was charged with any misconduct cognizable by the House? Should we not, after hearing his defence, require him to withdraw, and then proceed to the decision of his case, as our judgments and consciences directed? Here, however, what is done?—The Ministers—the very persons accused—arrogate to themselves the privilege of being their own judges. Fearful of subjecting their conduct to the consequences of a free and open inquiry, they endeavour to elude conviction and to blind the people by the intervention of a Committee nominally appointed by ballot,—but in reality selected by, and for the most part even composed of, themselves and their own unvarying supporters. It may be said, that the event will still ultimately depend on the majority of the House; but is it not a fact, that the majority will be led by the minority, claiming, as the latter will, an authority from the inspection of documents which the former has not the means of investigating for itself?

"I am surprised to hear an hon. and learned Gentleman on the other side (the Solicitor General) assert that the trials at Derby have fully established the necessity of the Suspension Act. If there was one thing more remarkable than ano-

ther in the course of those trials, it was the studied caution and anxiety with which the counsel for the Crown avoided every circumstance which could throw a light on the origin of the conspiracy. Although repeatedly challenged by the prisoners' counsel to do so, they did not adduce the slightest evidence in disproof of the allegation of its having been caused by the agents of Government. The general impression is, that, if the earlier part of the case had been gone into, the whole plot would be found to have originated with the persons employed by Ministers in the different districts. Of course I do not mean to say that it is positively the case; but such is my belief, and such is the impression on the public mind.—My hon. and learned Friends (the Attorney and Solicitor Generals) appear to me, in the conduct of these trials, to have discharged their duty towards His Majesty's Ministers better than they have done their duty to the public. If they were of opinion that the suspicions which pervaded the country, could be removed, the opportunity for so doing was presented to them by the trials at Derby. That was the place, and that the time, for entering into the whole of the case,—for explaining the extent and nature of the conspiracy,—and for justifying to the Country the suspension of the Habeas Corpus, by proving the magnitude of the danger which had called for it!—By neglecting to do so they have confirmed the suspicions which the previous conduct of Ministers had every

where excited,—suspicions which it is folly to imagine that a Committee by ballot can dispel.

"What, therefore, does my hon. and learned Friend mean by saying that the convictions at Derby have justified the conduct of Ministers, and shown the necessity of suspending the Habeas Corpus? On the contrary, does not the fate of that conspiracy amply demonstrate the adequacy of our accustomed laws to the situation of the Country?—Notwithstanding the labours of Government agents,—notwithstanding the suggestions and excitements to guilt, infused into the minds of the people by spies and informers,—by men, who with the zeal of religious missionaries, but with a very different design, went about propagating evil, —insinuating themselves into the confidence of the poor and the distressed,—visiting them at their looms and forges, and with hypocritical sympathy inflaming discontent to desperation,—notwithstanding all these aggravations of danger, have not the ordinary tribunals—the ordinary administration of the laws—been found sufficient for the suppression and punishment of guilt?—I know that Ministers are seldom slow to convert disaffection to themselves into disaffection to the Constitution, or to reward, as for good services, those who labour to convert the one into the other for the purpose of afterwards betraying their victims.

"If we are to give credit to all that has been said on the other side of the House, there is no

course of events, which it is possible for the ingenuity of man to contemplate, that would not have justified the conduct of Ministers. Was the public tranquillity restored? Its restoration was of course owing to the suspension of the Habeas Corpus.—Did partial disturbances prevail? They would have been ten times worse but for the operation of that wholesome and necessary measure. Had popular turbulence or disaffection become more general?—That proved, beyond the possibility of a doubt,—that must have convinced the most sceptical, of the advantage of having armed Ministers with unconstitutional power!

"Such has been the language of Ministers and their advocates;—but whatever effect it may have had on a majority of the Members of this House, it has failed to satisfy the Country. The public expectation calls loudly for an inquiry into the transactions of the last Session. It is only by a fair and full explanation of every circumstance connected with those events, that we can offer any atonement for the danger of the precedent which we have been induced to establish. Great as the mass of individual suffering which has been experienced under the suspension of the Habeas Corpus,—numerous as the evils which have been inflicted on the wretched persons who have been torn from the bosoms of their families and friends, loaded with irons, and exposed to all the rigours of arbitrary imprisonment,—dreadful as

these things are,—they are little when compared with the mischief which has been done to the Constitution. The poison of the example now unhappily set, unless counteracted by some timely antidote, will become the parent of still greater evils in future times. It is the nature of every new precedent to go beyond the old. It is one of the consequences of once quitting the track of the Constitution, that it leaves room for still wider deviations. Let the House only consider the influence of precedent. Let it say, whether the Ministers of the Crown would, in the last Session, have encountered the opposition which was made to their demands, if any precedent for conceding them under such circumstances had been previously in existence? The powers required would in all probability have been conferred as a mere matter of course.

"And are we not to apprehend the same consequence in future times which former precedents might have entailed on the present? May we not look forward to future Ministers anxious to increase the power of the Crown? May we not picture to ourselves even future Sovereigns,—possibly of the House of Brunswick, but acting upon the principles of the Stuarts,—who may be not unwilling to avail themselves of such instruments, and to imitate foreign despots rather than to reign in the hearts of a free People? What a precedent has been furnished to facilitate such designs by sus-

pending the Habeas Corpus at a period like that of the last Session! At a period, when there was no war,—no threatened invasion,—no domestic rebellion,—no pretender to the Throne,—no justifying cause, or even pretext for such a measure beyond those expressions of discontent which will always break forth in a free country, when governed by a weak Administration, with whom the feelings of the people are unable to sympathize! The calamity which I dread may not perhaps occur till the grave has closed over us and our contentions. But are we, on that account, to lose sight of the interests, the happiness, and the liberty of succeeding generations?

"It has been truly said by an hon. Baronet (Sir Francis Burdett), that the Habeas Corpus might as well have no existence, as be liable to such interruptions. Of what advantage is it to the subject except in periods of agitation? In times of perfect tranquillity a Government has no motive for depriving individuals of their liberty. It is when Ministers grow unpopular by their misconduct,—when grievances are severely felt,—and when the prevailing discontents, as must always happen in a free country, are loudly expressed,—it is then that this shield becomes necessary to the subject in order to protect him from the vengeance of those whose crimes or errors he has denounced, and who, under the pretext of suppressing disaffection to the State, are perhaps only intent on securing their

own power. Yet it is in such times, that this Act, so just, so necessary to the freedom and safety of the subject,—this Act, which has given to Englishmen, I may say, a privilege above all other nations,—may in future be taken away by the precedent which has now been established for the first time in the reign of George the Third, or rather in the Regency of the Prince by whom he is represented."

Sir Samuel Romilly, after a few further remarks on the material change which measures of this nature tended to effect in the English constitution and character, concluded by again protesting both against the proposed Committee, and the Bill of Indemnity, which that Committee was to be the instrument of Ministers in procuring.

The House divided:

For the Ballot - - - - - - - -	102
Against it - - - - - - - - -	29
Majority in favour of the Motion	73

STATE TRIALS IN SCOTLAND.

February 10th, 1818.

Lord Archibald Hamilton moved, "That there be laid before the House, a Copy of such parts of

the Books of Adjournment of the High Court of Justiciary in Scotland as contain the several Libels or Indictments, and the Evidence, and the Verdict and Judgment, and all other proceedings in the case of Andrew M'Kinley, who was tried before the said High Court of Justiciary, at Edinburgh, on the 19th of July, in the year 1817."—The object of the noble Lord's Motion was to call the attention of the House to the conduct of the Law Officers of the Crown in Scotland, with respect to a man of the name of Campbell, whom he charged them with having tampered with and then produced as a Witness on the Trial of the said Andrew M'Kinley.—The Motion was supported by Mr. J. P. Grant and Mr. W. Wynn, and opposed by the Lord Advocate, and Lord Register of Scotland, Lord Castlereagh, &c. &c.—Sir Samuel Romilly said, that after the able, eloquent, and unanswerable speech of his hon. and learned Friend (Mr. J. P. Grant) he should have thought it unnecessary to offer himself to the attention of the House, but for the extraordinary confidence with which the noble Lord (Castlereagh) had defended the proceedings in question. The noble Lord had talked of the record, as if it had been on the table, and had argued against inquiry, because the facts of the case, which he had assumed, were not sufficient to warrant condemnation. If the Record was calculated to justify his Lordship's view of the case, why did he not at once satisfy the

accusers, and vindicate his accused friends by the production of it?

But the Lord Advocate had said, that any inquiry instituted by the House of Commons would be an unwarrantable interference with the Courts of Justice, and would deprive those aggrieved of their remedy at law. Was there any other lawyer in the House who would maintain such a proposition? Besides, what actions could be brought against the learned Lord?—None certainly for injury done by the production of Campbell as a Witness; for his evidence had been rejected.—The fate of Mr. Adam's Motion in the case of Muir and Palmer had been referred to by the learned Lord, as an authority to control the decision of the House on this occasion. Whatever value that case might possess in the eyes of many of the Gentlemen opposite, it had not the merit of being at all applicable to the case before them. There, the Record of the Trial was required for the purpose of arraigning, in point of law, the proceedings of the Court of Justiciary;—here, the Record was wanted to explain the conduct of the Law Officers as to certain facts which, in the opinion of the Judges themselves, demanded investigation.—One of the Judges in particular (Lord Gillies), after speaking to the inadmissibility of the witness Campbell,—inadmissibility, it was to be remarked, not on account of incredibility, but on account of the misconduct of the prosecu-

tor,—said, that, sitting as the Court was to try M'Kinley,—it could not go into the matters stated by Campbell, but that it was, on many accounts, desirable to have them further investigated.—This, however, could only be done in two ways; either by a trial of Campbell for perjury, or by an inquiry instituted by the House of Commons. The first had not been attempted,—not, however, for the reasons pretended by the noble Lord (Castlereagh)—not for the want of a sufficient number of witnesses to contradict Campbell if his evidence admitted of contradiction. Even the learned Lord (Advocate) had not ventured to assign such a pretext. But whatever might be the cause, the fact was, that no such proceeding had been attempted, or was even in the contemplation of the Law Officers.—How then could the subject be more properly investigated, than by the House of Commons?

The whole of the noble Lord's (Castlereagh's) argument tended to show that Campbell was an incredible Witness. Sir Samuel Romilly saw nothing to detract from his credibility. He had been sworn, and might, if perjured, have been contradicted by other Witnesses. No attempt, however, had been made to contradict him, even by those most interested in doing so; and the House was therefore bound to give some little credit to his assertions. Why had not Sir William Rae been examined? His evidence would have been most

material in throwing light on the transactions in question, and was repeatedly called for by the counsel for the Prisoner. Notwithstanding the confidence of the noble Lord, Sir Samuel Romilly thought it required better authority than his to show that Campbell's evidence was incredible.

The reasoning of another hon. Gentleman (the Lord Register) on this subject was equally unwarranted and inconclusive. He had spoken of a contradiction in the deposition of Campbell which did not exist. He stated him to have said, that Mr. Drummond, though strongly impressed with an opinion that he (Campbell) could not reside with safety in any part of the kingdom, was still desirous that he should accept the office of an exciseman!—But Campbell had stated no such thing. He had merely said that he was afraid to remain in Glasgow, or in any manufacturing town, with which probably there might be a communication;—and was this at all inconsistent with the offer of a situation in some other part of the kingdom? Had the learned Gentleman never heard of a Scotsman having a place in the Excise out of Scotland,—in Cornwall for instance,—or elsewhere far enough removed from the dangers of Glasgow?

To come to another point,—the result of the trial. The learned Lord (Advocate) had told the House, that the trial of M'Kinley proved the fact of unlawful oaths having been administered at

Glasgow, because the Verdict against him was "not proven."—He presumed that the House of Commons, in its ignorance of Scotch law, would be induced to believe that, "Not proven" meant "proved!"—By this verdict the learned Lord pretended that the *corpus delicti* was clearly established, and that nothing was wanting but to bring home the guilt to the Panel. There was no authority which could be cited for this interpretation. Neither Sir George Mackenzie, nor Hume, nor Erskine,—no, not even Burnet, for whom the learned Lord seemed to entertain a still higher veneration, gave any countenance to such a construction. The meaning of the Verdict was, that the facts were not established to the satisfaction of the Jury. It was equivalent to the *non liquet* of the Roman law, and was a middle course which the Jury took when the case was not clear, either as to the guilt or innocence of the Panel. All the great law-writers of Scotland had declared that "not proven" amounted to an acquittal, — not indeed an honourable acquittal,—but an absolute dismissal from the charge preferred; and yet the learned Lord did not hesitate to say, that the unlawful oaths had been fully proved by the magical words of "Not proven!"

The learned Lord had next endeavoured to make a great deal of the communication between the Prisoner and the Witness, Campbell; but it was his duty to facilitate the communication be-

tween Prisoners and Witnesses. By the law of Scotland, the Prisoner was entitled to a list of all the Witnesses, (a privilege allowed by the law of England only in cases of High Treason);—he was also permitted to communicate with them, that he might know beforehand what facts were to be alleged against him. — The noble Lord (Castlereagh) had been pleased to describe this as "a trick,"—as "a case got up" for a particular purpose, and had called on the House to concur with him in stifling all inquiry. Whatever might be the decision of the House, the Country would not see it in such a light. But even if the case was as the noble Lord had represented it, still the inquiry would not be, on that account, unnecessary. It was of importance to the Country that every thing relating to the administration of criminal Justice should be not only pure, but unsuspected. Could the House then resist an inquiry into such a case—a case which the Attorney General himself had declared he could not defend?—God forbid (that hon. and learned Gentleman had said), God forbid, that he should go into Prisons to communicate with Prisoners before they were publicly brought to trial!

But it was said that the duties of the Lord Advocate were of a different description from those of the Attorney General of England, — that the former was not only the public prosecutor, but the head of the Police, and, in fact, the Grand Jury

of the Country.—It was his duty, however, to protect Prisoners, and to see that no evidence should be adduced against them, influenced either by fear or hope. The law of Scotland differed from that of England in this respect. The law of England did not begin by examining a Witness as to his fears and hopes; but in Scotland the Witnesses always went through that ordeal first. They were required, previously to giving evidence, to swear, that they had received no reward, nor promise, nor good deed (a very comprehensive word) for giving evidence.

Let the House now see the situation of Campbell. What description of evidence was to be expected from a man so placed? Was it nothing that he had been worked upon by the promise of reward on the one hand, and the threat of death on the other? He was told that there were six witnesses against him; and as he knew the mode which had been employed to obtain evidence, he might also know that conscious innocence was of no avail.—The man said, "If I do give the evidence required of me, I shall be perjured;"—but when he considered that these six men were also to be influenced,—that on the one side a shameful death might await him, and on the other a fortune beyond his previous circumstances and situation in life, could it be supposed that his testimony would be unbiassed? And yet with these

powerful engines of hope and terror working upon him he was sent forth to give his evidence!

And what was the defence? Why, it was asked by the noble Lord (Castlereagh) whether the House would call on such a man as Mr. Home Drummond to answer the testimony of such a witness as Campbell?—He (Sir S. Romilly) would answer, Yes!—There was no one in this Country so high as to be screened from the obligation of answering such a charge:—he would, when justice required it, call on Mr. Home Drummond,—or even the noble Lord himself,—he would say that the noble Lord was wholly unfit for judicial inquiry, if he was ignorant, that no man, be he who he might, could decline to answer a charge thus preferred against him on oath.—Those who should be persuaded to refuse to Mr. Drummond and the other Gentlemen implicated with him, the power of vindicating themselves from this charge, would do a great disservice to their characters. Nothing but an investigation could remove from them a cloud of the worst suspicion,—the suspicion of unfair practices in cases where the lives of their fellow-creatures were at stake. The prevention of inquiry would subject them to imputations for ever; and he, therefore, trusted that on this ground at least, if on no other, the House would not refuse that examination so necessary to their vindication and credit.

The House divided:

Ayes - - - - - - - - -	71
Noes - - - - - - - - -	136
Majority against the Motion -	65 *

* The substance of Campbell's deposition was, that he was apprehended with the Prisoner M'Kinley about the 22d of Feb. 1817.—That he was taken to be examined before the Sheriff Depute of Lanarkshire; and being interrogated, if he knew what he was brought there for, and answering that he did not, the Sheriff said, *it would be wisdom of him to make his breast clean.*—That he was then left with Mr. Salmond (the Procurator Fiscal), who said to him, "John, you perhaps do not know that I know so much about this affair,—I know more about it than you think I do"—That he was often closetted with Mr. Salmond, who on one of these occasions, *after using many entreaties, and after railing at the Prisoners as villains who had betrayed him (the Witness),* said, "John, I assure you, that *I have six men who will swear that you took the oath, and you will be hanged as sure as you are alive.*" That Mr. Salmond afterwards said that the Lord Advocate was in Glasgow, and would come *under any obligation Campbell chose, if he would be a witness.*—That the Deponent was soon afterwards removed to the castle of Edinburgh, where Mr. Home Drummond, the Advocate Depute, came to him; and mentioned that M'Kinley had been served with an Indictment, and that *his (Campbell's) name was in the list of witnesses, and that now was the time for him to determine whether he would be a witness or not.*—That the Deponent stated, that he did not wish to be a witness, and that he, Mr. Drummond, knew that if he was, he need not go back to Glasgow, as he could not live there. That Mr. Drummond said, that he was quite sensible of that, but that he might go and reside somewhere else, and that he might change his name;—that Campbell said he would not change his name, and that it would be much the

same if he lived in any other manufacturing place as in Glasgow—That Mr. Drummond then said, that *he had been thinking of a plan of writing to Lord Sidmouth to get him into the Excise, and that if Campbell chose, he would write to Lord Sidmouth, and show him his answer.* That the Deponent declined this offer on account of the risk and ill-will to which it might expose him.

That at the next interview, Mr. Drummond asked Campbell *what he wanted to have.* That he (Campbell) remained silent, and that Mr. Drummond then said, that, *if he would give such information as would please the Lord Advocate, he should neither be tried himself nor made a witness.*—That Campbell having hesitated about complying with Mr. Drummond's request, that Gentleman called again, in the course of a few days, to ask him if he had made up his mind. That the Deponent said he had *upon conditions;* and on being asked what these conditions were, he said that he wished to get a passport to go to the Continent, but that, being a *mechanic,* he was afraid the laws of the Country would not allow him to go.—That Mr. Drummond replied with a smile, "Is that all? There is no question but *you will get that, and means to carry you there.*"—That Campbell then said, that upon these conditions he would be a witness, provided his wife was also taken into consideration. That Mr. Drummond acquiesced in this; and that finally the Procurator Fiscal of Glasgow was written to on the subject, by the Lord Advocate's desire.

That an examination afterwards took place IN THE PRESENCE OF THE SHERIFF,—THE SHERIFF SUBSTITUTE,—THE SOLICITOR GENERAL,—A CLERK,—THE PROCURATOR FISCAL OF EDINBURGH,—AND MR. DRUMMOND,—at which Mr. Drummond asked Campbell, what he had to say in the business?—That Campbell answered, that supposing he was concerned in the affair, and was to tell the whole truth, he did not consider himself or his wife safe, and that without his getting a passport to go to the Continent, and the means of carrying him there, he could not be a witness; upon which Mr. Drummond turning to the Solicitor General, said, "Answer you that." That the Solicitor General then ordered the clerk to write down words to the

following effect—" Whereupon the Solicitor General assures the Defendant that every means necessary will be taken to preserve him and his wife, and that he will get *a passport to go to the Continent, and the means to carry him there.*" That the Sheriff (Sir William Rae), who had been walking up and down the room, was desired to sign the paper; but that, after perusing and considering it for some time, he refused to sign it,—adding, that, as he was an Officer of the Crown, *it was his duty to see justice done; and he could assure the witness, if he was to sign that paper, he would not be answerable for it for a good deal; for that if the Deponent was brought to his oath, and should swear that he had received no promise of reward, and this paper signed, he would perjure himself.*—That the witness answered, No; if it was considered a means of his preservation; upon which he was supported in the same argument by Mr. Drummond.—That the Sheriff, however, persisted in his refusal to sign any such paper, and that Mr. Drummond then proposed, that it should be put down, that *Campbell was to have the means of going to some of the British Colonies, instead of going to a foreign kingdom*; but that the Sheriff also refused that, and added, that he was willing every thing should be set down for the preservation of Campbell and his wife, but nothing more.—That Mr. Drummond then said, " Campbell, you know whether you can be a witness on these terms, or not."—That the witness remained silent; and some time after Mr. Drummond said, *Now, Campbell, do you believe that we can do that for you which you expect, without its being set down in the paper?*"—That Campbell answered, that he knew they were able, if they were willing,—to which Mr. Drummond replied, *Could he rely upon them for that?*—That Campbell said, " *May I?*"—and that Mr. Drummond answered, " *You may,*"—and Campbell rejoined, " *Well, then, I shall rely upon you as Gentlemen.*"

Such is the substance of Campbell's deposition on the trial of M'Kinley.—Though his testimony, if false, might have been contradicted in so many particulars by so many witnesses,—by the Sheriff of Edinburgh,—the Sheriff Depute,—the Solicitor

General,—the Procurators Fiscal of Glasgow and Edinburgh, &c. &c. no attempt of the kind has ever been made!—On the contrary, we see Lord A. Hamilton's Motion for an inquiry into this charge, resisted by the very friends of the persons who were implicated in it, and who, if innocent, ought to have been anxious for an opportunity of vindicating their aspersed characters.

SPIES AND INFORMERS.

February 11th, 1818.

Mr. Fazakerly moved, "That it be an instruction to the Committee of Secrecy, to inquire whether any and what measures had been taken to detect and bring to justice those persons described in the Report of the 8th of June, who may by their language and conduct have encouraged those designs of which it was intended they should only be the instruments of detection."—The Motion was supported by Lord Milton and Mr. Bennett, and opposed by Mr. Bathurst, Mr. C. Grant, and the Solicitor General. Mr. Wilberforce reprobated the employment of Spies and Informers in the most emphatic manner. The practice was as injurious to the best interests of the Country and the Constitution as it was repugnant to every principle of Morality and Religion.

The God of truth abhorred falsehood and deceit! Mr. Wilberforce, however, was against the Motion, because it involved an inquiry that could not well be carried on in the Committee.

Sir Samuel Romilly expressed his surprise at the course pursued by the two last speakers, who had addressed themselves more to the mode of inquiry than to the substance of the charges.—His hon. Friend, the Member for Bramber (Mr. Wilberforce), had objected to refer the inquiry to the Committee of Secrecy, and his learned Friend, the Solicitor General, had contented himself with endeavouring to show that the passage in the Report to which the Motion alluded, did not bear the construction put upon it, so as to render a reference to the Committee necessary.—He himself had no particular desire that the proposed examination should be referred to the Committee of Secrecy. Indeed, after what had been said by the noble Member for Yorkshire (Lord Milton), that he stood alone in the Secret Committee*, and that

* The Committee consisted of the following names: Viscount *Milton*, Lord *G. Cavendish*, Mr. Williams Wynn, Viscount Castlereagh, Mr. Bathurst, Mr. Lambe, Sir *A. Pigott*, Sir W. Scott, Sir J. Nicholl, the Attorney and Solicitor General, Mr. Canning, Mr. Yorke, Mr. Egerton, Mr. Wilberforce, Mr. Bootle Wilbraham, Mr. W. Dundas, Mr. Peel, Sir W. Curtis, and Admiral Frank. Of these the only Members who had voted with Lord *Milton* in resisting the suspension of the Constitutional Liberty, were Lord *G. Cavendish* and Sir *A. Pigott*, both of

he merely attended it, because he wished to fulfil a duty imposed on him by the House, and not with any hopes of doing good in it, he (Sir S. Romilly) would have preferred another mode of inquiry. Some inquiry, however, was absolutely necessary; and he should vote for his hon. Friend's Motion, because it was the only mode which had been yet suggested for sifting the alleged charges.

After the charges which the House had heard from his hon. Friend (Mr. Bennett) that night, with the pledge which he had given of substantiating them,—if he was allowed an opportunity—by witnesses on oath, he thought the House could not refuse inquiry,—he might say in the language of his hon. Friend, that the House could not,—that for the sake of its own consistency and character, it dared not resist an inquiry into the truth of these allegations. The Parliament was drawing near to a dissolution. How could the Members composing it, turn a deaf ear to such grave charges, and yet venture to meet their Constituents?—"The Solicitor General" (continued Sir S. Romilly) "seems to imagine that he has got quit of these charges by asserting that they have come

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whom—as it was understood at the time of the ballot,—were unable to attend the Committee. Such a list is alone sufficient to explain both the system of Ballot, and the history of Parliamentary Reports, and Bills of Indemnity.

from *a polluted source.* Suspecting the narrative to have been furnished by a person of the name of Mitchell, who was arrested by Government on suspicion of Treason, the learned Gentleman has forsooth described it as coming from a polluted source! Mitchell was arrested on the 21st of June; and because he has been so arrested—no matter on what evidence—his testimony therefore is inadmissible and his oath discredited.—The learned Gentleman has thus found out a new expedient for the use of Government;—he has promulgated on his own high authority, as one of the first Law Officers of the Crown, an improved mode of disqualifying any witness who may presume to appear against His Majesty's Ministers. According to this plan, Government has only to throw the obnoxious individual into prison, and his evidence at once ceases to be any longer credible. The moment he is taken up, he will lose not only his liberty, but his character, and can never afterwards be believed. Is this a principle to be endured in a free, or indeed in any Country? —Once adopt it, and every Minister will find it his interest to take the widest possible range of accusation, as the most effectual step towards his own security. I have dwelt more strongly on what has fallen from the Solicitor General on this subject, because it was not a mere inadvertent phrase (like that of my hon. Friend, when he used the words illegal acts, as applied to Treason),

but had been frequently repeated by him in the course of his argument.

"But, then, according to the suspicions of the learned Gentleman, there are two other contributors besides Mitchell to the narrative of my hon. Friend (Mr. Bennet)—persons of the name of Pendrill and Stephen, who were not imprisoned, but have fled to America. Their evidence is consequently of the same dye and quality, and as little to be trusted, as that of Mitchell. What however will the House think of the conjectures and arguments of the learned Gentleman, when it finds that the persons thus alluded to, — these supposed instructors of my hon. Friend,—had left England *before* the events mentioned in the narrative are stated to have taken place?—But is it by such reasoning as that of the learned Gentleman that these serious charges can be refuted? Will the Government be acquitted of them by the Country upon the mere allegation that they have proceeded from a polluted source?—When my hon. Friend, with his high character for honour and integrity, comes forward, and says that he can support these charges upon oath,—that he has inquired into the testimony on which they are founded, and believes it to be entitled to credit,—I again repeat, that the House will not dare, in the face of the public, to resist inquiry.

"The hon. and learned Gentleman has ad-

verted to the trials at Derby in refutation of the narrative of my hon. Friend. He says that it appeared on the trial of Brandreth, that meetings of the conspirators had taken place before the 26th of May, and he wishes this statement to go forth to the public as a satisfactory answer to the charge against Oliver, of having arranged the plan of insurrection for the 9th of June. Now, not one word came out in evidence, that any plots had been formed before the 26th of May. Indeed the testimony of the witnesses examined did not refer to any proceedings anterior to the 8th of June.—The Solicitor General has asked, why the prisoners did not call Oliver?—Because it was impossible. Indeed he himself admits this.—But again he asks why, when they were brought up for judgment, did they not say that Oliver had misled them?—Does my learned Friend mean to insinuate, that if they had done so, they would have obtained mercy?—If he wanted their avowal of that fact, he had it from them in their last moments,—at a time when they could have no hope,—no object to serve by the declaration. The prisoners,—who were all men of a strong religious turn,—declared with their latest breath that Oliver had brought them to their fate. If the Solicitor General did not believe them then, would he have believed them when they were brought up for judgment?

"The learned Gentleman has treated my hon. Friend (Mr. Bennet) most unfairly. The turn so

'invidiously given to his speech is equally unmerited and unjustifiable. It was not pretended by him, and no man could so have understood him, that the prisoners at Derby were not guilty of crimes for which they deserved death by law. Brandreth had actually committed murder, and the others, as implicated with him, have not less deservedly suffered. No man of common candour could have so mistaken and misrepresented my hon. Friend. It looked like an intention on the part of the learned Solicitor General to throw a stain upon an honourable and unblemished individual,—an attempt to prove that he was a suborner of improper evidence. [The SOLICITOR GENERAL said that he had not used the word 'suborner']—Unquestionably not, but his language implies as much. It tends to impress the world with a belief, that my hon. Friend has examined witnesses, and taken evidence from polluted sources,—that he has, as it were, made common cause with traitors and murderers by justifying their crimes. ['No; no;' from the SOLICITOR GENERAL.] Perhaps the expression of the hon. and learned Gentleman has not been quite so strong, and perhaps he will have the goodness to explain presently what it was he did say, to which may certainly be applied the mitigated phrase, that it seemed dictated by some degree of malignity.

"The hon. Gentleman who spoke last (Mr.

Wilberforce) has reprobated with the greatest warmth the employment of Spies and Informers under *any* circumstances. I am not casuist enough to be able at this moment to decide whether their assistance ought never to be required,—whether there may, or may not, possibly exist cases in which private treachery may be encouraged for the sake of discovering public guilt. But if I do not at once acquiesce in the opinion of the hon. Gentleman to its full extent,—I am further, much further from agreeing with the noble Lord (Castlereagh) who on a former occasion not only justified, but applauded, the use of such instruments. It is singular, however, thinking as the hon. Member does,—that they are the pests of society,—that they betray the confidence of friendship and break the ties of blood,—that they take advantage of the wants and woes of their fellow-citizens, and lead them on under the colour of co-operation, from discontent to sedition, and from sedition to treason,—it is singular that with these opinions the hon. Gentleman should object to the present Motion,—that, upon a matter so imperiously demanding investigation, he should resist all inquiry. Would not this reference to the Committee at least tend to diminish the use of Spies, and to remove a plague from the bosoms of the peaceful and well-disposed inhabitants of the Country?—And would not this result alone, in the eyes of the hon. Member, be a lasting benefit conferred upon

the Country, and an agreeable service to the God of truth?

"The hon. Member has expressed a wish to hear Oliver tell his own story; and why cannot this be done before the Committee? Does he think that the unhappy man will be unequally matched,—that he will not meet with due support from the noble Lord and his other friends upon the Committee?—But the hon. Gentleman has spoken of a prosecution. Does he mean that it should be undertaken by private individuals, and that Government,—the public prosecutor in all other cases,—should defend instead of accuse?—If the hon. Gentleman is sincere in his desires to have this matter investigated before a competent tribunal, and to have Oliver prosecuted for the crimes he is supposed to have committed,—what more effectual step can be taken towards the accomplishment of that object than the proposed inquiry?—But no—it is not the punishment of Oliver which is wanted by those using these arguments. Many of the Members of this House, we are told, entertain even a good opinion of him. They thought him, when before the last Committee, not sufficiently wicked for a spy.—He appeared to them a bungler in his business,—and not to have '*snatched that grace beyond the reach of art*' which accomplished villains boast!—But has it never occurred to the hon. Gentlemen who thus bear testimony to his character, that the man

who has been so successful in deceiving his enemies, may perhaps also be able to impose on his friends?

"Recollecting the thinness of the House when the hon. Member for Shrewsbury made his important statement, and observing the crowded state of the benches now, let me entreat the hon. Gentlemen on all sides to pause and deliberate before they reject this Motion. Can they reconcile to themselves the refusal of an investigation without having heard the grounds on which the demand for it has been rested? Will they venture to risk the impression which may be made by the rejection of this Motion on the public and on their Constituents? — I will not now occupy more of the time of the House;—but if the proposition of this night is negatived by the majority, which I fear,—I trust that the hon. Member for Bramber (and no man can do it with more weight) will, on an early day, come forward with a Motion consistent with his speech, to inquire into the recent encouragement which has been given by Ministers to a set of men, whose employment is destructive of the happiness, the morality, and the religion of the community."

The House divided:

Ayes - - - - - - - - - -	53
Noes - - - - - - - - - -	111
Majority against the Motion	58

GRIEVANCES UNDER THE SUSPENSION ACT.

February 17th, 1818.

Lord Folkstone moved for the appointment of a Committee to inquire into the truth of the allegations in the Petitions of Francis Ward, William Benbow, and others*, who had been imprisoned under the Act for the Suspension of the Habeas Corpus. The Motion was opposed by Lord Castlereagh, who described Ward as a wretch tainted with the most atrocious crimes, and wholly unworthy of the slightest belief†. After a debate in which Mr. J. Smith, Mr. Gordon, Sir Francis Burdett, Mr. Wilberforce, and others, bore a part, Sir Samuel Romilly rose and said, that a Bill of Indemnity being about to be passed, the question for the consideration of the House then was, whether it should be done without an inquiry into the gross abuses of power imputed to Ministers. Why should not these Petitions be referred to the Committee then sitting, or, if *that* was

* For copies of these Petitions see *Hansard*'s Parliamentary Debates, vol. xxxvii.; and *Evans*'s Parliamentary Reports, vol. ii.

† *Ward* afterwards brought an action against the editor of the Observer newspaper for printing and circulating Lord Castlereagh's statement, and obtained 600*l.* damages.

so constituted as to be able to examine witnesses only on one side—to receive, as a new sort of Grand Jury, all evidence for the accused, and none for the accuser,—why might they not be sent to some other more efficient and impartial tribunal?—It was asserted that unnecessary severity had been employed,—that persons had been dragged about the country in fetters, as proofs to the inhabitants of an existing plot. Could any subject be more worthy of Parliamentary interposition and inquiry?

"My principal object in rising" (continued Sir Samuel Romilly) "is to refute the statement of a noble Lord (Castlereagh), in the humble hope of being thus able to influence some few votes, in the division of this night. The noble Lord has said, that the sufferers, if the facts contained in their Petitions are true, will not be deprived of their legal remedy, and that there will be nothing in the Bill of Indemnity, to preclude them from proceeding by action in the ordinary courts of law. How unfounded this assertion is, appears from his Lordship's next sentence, in which he tells us, that the Bill of Indemnity now required will be in all respects the same as that of 1801. Now, the very first clause of that Bill expressly enacts 'that all personal actions heretofore brought, or which may be hereafter commenced or brought, against any person on account of any act, matter, or thing done, recommended, directed, ordered,

or advised to be done, for apprehending, imprisoning, or detaining in custody any person suspected of High Treason, shall be discharged and made void.'—It is clear, therefore, that the parties who have so severely suffered will be deprived of all redress, if the Bill of Indemnity in question shall be adopted.

"I will now say a few words on the Petitions themselves. There are, I believe, eleven of them from different persons in different parts of the kingdom, and containing different allegations. Suppose that some of these should be proved to contain false charges, is it therefore consistent with justice that the others should be dismissed without examination? Suppose that some of the acts described by the Petitioners,—such as solitary imprisonment,—such as the transfer of prisoners from one gaol to another, without any apparent necessity,—should not be absolutely illegal, does it necessarily follow, that they may not be, on every principle, grossly inhuman and unjust?—The noble Lord has evidently made preparations for the debate of this evening, but after all his labours he has only ventured to impugn two or three out of the eleven Petitions before the House. And yet he calls on the House equally to reject the consideration of all! The contradiction which he may have given to Ward or Haynes is no reason for excluding the other Petitioners from attention and redress. Such a doctrine cannot be maintained

by any just or rational man. For instance, why should the fallacy of the other statements—let it be admitted to exist to any extent the noble Lord requires—why should the imputed misrepresentations of others be allowed to prejudice the case of that wretched man Ogden, who at the age of 74, and in a state of lamentable disease, has been loaded with fetters like a common felon?—There is at least some ground for believing that his Petition contains truth, for he has referred to the surgeon, Mr. Dixon, who attended and cured him of the complaint, produced, or at least grievously aggravated, by the weight of his fetters. I will ask my hon. Friend (Mr. Wilberforce) whether he thinks it just to dismiss this Petition, this uncontradicted charge of cruelty and oppression, without either inquiry or redress? — There are seven other cases which stand on the same footing,—particularly those relating to the prisons of Gloucester and Lincoln. Against the truth of these not one syllable has been uttered; and when I consider the extraordinary pains which have been taken by the noble Lord to refute the statements contained in some of the Petitions, I cannot but conclude that those which have not been impeached, are, on this very account, unimpeachable. Silence is to me a proof that nothing can be said against them. As to the denial given by a gaoler to the statement of a Petitioner, nothing can be more absurd than the production of such testi-

mony. In what Court would it avail for the acquittal of the accused, that he had himself denied the truth of the accusation?

"An hon. Baronet (Sir Francis Burdett) has founded a very just argument on the conduct of this House with respect to Aris, the Governor of the Coldbath Fields Prison. The hon. Member, however, who spoke last (Mr. Wilberforce), instead of answering, has completely mistaken the object of the hon. Baronet's observation. The hon. Baronet had intended no imputation on him, when he alluded to his testimony in favour of the humanity of Aris. He only inferred, and surely with great justice, that if a Member of such integrity and sagacity had been imposed on in that case, it is not impossible, that the Gentlemen who have spoken this night in such high terms of the different gaolers, may have been equally deceived.—What then is the deduction from this argument of the hon. Baronet? Surely not, as the hon. Member for Bramber has contended, that no inquiry is necessary, but that the strictest examination shall be instituted without delay.—Aris, notwithstanding the numerous testimonies to his character in this House, was afterwards convicted of the grossest delinquencies; and it is not impossible that similar results may follow from similar inquiries on the present occasion. My hon. Friend (Mr. Wilberforce) observed on a former night, that if any Member could pledge his belief,—a

belief derived from his own personal observations, —as to the truth of any of these alleged abuses, he should be ready to support an inquiry. 'Why' —he asked the Member for Shrewsbury who had brought forward some case of enormity—'why had not he himself taken the pains to make inquiries and to examine witnesses as to the truth of the charge?'—The hon. Member for Shrewsbury answered, that he had examined,—that he had himself seen and questioned the witnesses in person!—And yet my hon. Friend, instead of being satisfied with this compliance with his own desire and sense of justice, thought proper to vote against the Motion so founded and so supported! I trust, however, that my hon. Friend will yet retrace his steps. I hope he has repented of that vote, and will yet make amends.

"With respect to the character of one of the Petitioners,—I mean that of Ward,—it certainly appears to be bad. The only wonder indeed is, if he is as criminal as he has been represented, that he has not long ago been brought to justice. It is said, that previous to the Suspension Act he was in gaol on a charge of felony. If this be the case, I should like to know why he has not been tried,—why, if the case required it, his life has not been sacrificed to the ends of justice? But this has nothing to do with the allegations in the Petition, many of which, notwithstanding the mighty preparations made by the noble Lord for the purpose

of contradiction, have been left completely unanswered. What explanation, for instance, has been given of that part of Ward's Petition which relates to the hardships he endured in the castle of Oxford,—to his confinement during four out of every eight days in a loathsome cell, from which he was thus alternately taken, because it was almost impossible for him to exist in it more than four days at a time?—And yet for all this, and for similar abuses of power, an indemnity is to be granted to the authors, and the Report which is to warrant this indemnity, is to come from a Committee, before which,—while the accused bring such evidence only as they please,—the accusers are not allowed to bring any evidence at all!

"As to the personal virtues of Lord Sidmouth, of which the House has heard so much, I shall be always, I hope, disposed to render them the justice which they deserve. But is this any answer to the charges which have been preferred against him, this night, in his capacity of Secretary of State for the Home Department? Is *his* character, however exemplary, to preclude all inquiry into the alleged misconduct of his agents? If the public administration of the noble Lord has been at all consistent with his private worth,—if the charges preferred are either unfounded fabrications, or the acts of subordinate ministers unknown to or unwarranted by their superior,—admitting either of these suggestions to be the fact,

the House is equally bound to go into this investigation. Let it be the falsehood of his accusers, or the misconduct of his agents, that is the source of these charges, the Country, the House, the friends of the noble Secretary himself, are all equally interested in having them thoroughly examined and explained. I will not say, that *all* the facts stated in the different Petitions,—supposing them all to be proved,—are in themselves absolutely *illegal;* but I will say that they are unnecessary and wanton abuses of power. What can be imagined more cruel than that of which some of these unhappy men complain,—the privation of freedom and food,—of sleep and health? What could be a greater mockery and insult than parading them from town to town, in open daylight, and loaded with chains? What possible object could be answered by such a wretched triumph, except to promote alarm,—except to convince a few miserable minds, that some extraordinary plot existed against the State?—Ward, whose case has been principally canvassed this night, was so taken through the country, chained to his fellow Petitioner Haynes. But the latter, according to the noble Lord, acknowledged some obligations to one of the officers by whom he was conducted in these journeys. That some humanity may have been shown by the officer alluded to, and felt by Haynes, is not improbable. It is also probable that the conduct of some gaolers may have been

equally humane. But does this alter the case in favour of Ministers, or prove the necessity of carrying about these wretched men, as spectacles of derision or alarm to the whole country?—In my conscience, I could almost believe that one of the main reasons for such a proceeding, was to find the gaoler most likely to conform to the views and wishes of the Ministers by whom the Petitioners had been arrested.

"An hon. Friend of mine (Mr. Wilberforce) has thought proper, in one part of his speech, to pass a glowing eulogium on the suspension of the Habeas Corpus, and has referred to the history of an ancient republic, in illustration of the advantages of suspended liberty; but has my hon. Friend forgotten the consequences of those occasional dictatorships which he has held up as examples to this country? Did they not at last end in a perpetual dictatorship—in a tyranny never to be shaken off? For my own part I believe most firmly, before God, that these frequent and unjustifiable suspensions of the Constitution will—unless the House of Commons shall do its duty, which it has not hitherto done—end in the complete ruin of our liberties."

The House divided:

Ayes - - - - - - - - -	58
Noes - - - - - - - - -	167
Majority against the Motion	109

PRIVATELY STEALING IN SHOPS, &c.

February 25th, 1818.

Sir Samuel Romilly moved that the Act of the 10th & 11th of William III. c. 23, intituled, "An Act for the better apprehending, prosecuting, and punishing of Felons that commit Burglary, Housebreaking, or Robbery in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses," should be entered as read. This having been done, he rose again, and spoke to the following effect: "Sir, I rise for the purpose of moving for leave to bring in a Bill to repeal so much of the Act of the 10th & 11th of William III. as takes away the benefit of Clergy from persons convicted of privately stealing goods, wares, or merchandises, of the value of five shillings, in any Shop, Warehouse, Coach-house, or Stable. In renewing a Motion on which the opinion of this House has been repeatedly expressed, it will be unnecessary for me to trouble it at any length. The Bill for which I am about to move has passed the House of Commons four times; twice in the late, and twice in the present, Parliament. On the last occasion, I may say, that it passed unanimously; not a single voice being heard in opposition to it. Yet in each instance it was rejected by the House of Lords.

" In proposing once more the alteration of this law, I must be permitted, in confirmation of my former arguments on the subject, to call the attention of the House to the returns which have been for some days on the table. These returns, which contain the number of criminals apprehended, tried, convicted, and executed during a period of twelve years, clearly demonstrate the state of the law on this subject, and the extreme variance which must ever exist between its practice and its principle. Such indeed is its sanguinary nature, that it never can be executed. In the course of twelve years, from the end of 1805 to that of 1817, *six hundred and fifty-five* persons have been indicted for the offence of stealing privately in shops property to the value of five shillings. Of these, *one hundred and seventy-seven* were acquitted;—*one hundred and thirteen* capitally convicted;—and *not one* executed. In the remaining *three hundred and sixty-five* cases, the Juries, either finding that the property was not of the value of five shillings, or that it was not stolen privately, acquitted the prisoners of the capital part of the charge, but found them guilty of simple larceny. It is evident, therefore, either that these three hundred and sixty-five persons have been improperly charged with a capital offence, or that the Juries, influenced by feelings of humanity, have in so many instances violated their oaths. It is true, there are high authorities

in justification of this conduct on the part of Jurors,—of this kind of *pious perjury*, as Mr. Justice Blackstone is pleased to call it.—That learned Judge, after adverting to the complaint of Sir Henry Spelman, that whilst every thing else was risen in its nominal value, and become dearer, the life of man had continually grown cheaper,—goes on to remark, that the mercy of Juries will often make them strain a point, and bring in the thing stolen to be under the value laid in the indictment, when it is really of much greater value. And this, he adds, is evidently justifiable and proper when it only reduces the present nominal value of money to the ancient standard *.—In opposition, however, to this high authority, I must still contend that the practice here attempted to be justified is of the most immoral tendency. It familiarizes the mind to a disregard of judicial oaths —to equivocations of conscience, which no state of the law, and no consequences however revolting or unjust, can sanction or excuse. It is the duty of the Legislature to remove all temptations to so dangerous a practice.

"Under the present law, the crime of shoplifting has gone on increasing in regular progression. It is not only the verdict of Jurors that is influenced by its enactments; the humanity of prosecutors and witnesses equally revolts at its indis-

* Comm. vol. iv. p. 239.

criminate rigour. Persons, whose property has been stolen, have been known in numerous instances to acquiesce contentedly in the loss, rather than to prosecute, at the risque of sacrificing the life of a fellow-creature. Remove, however, the punishment of death;—proportion the penalty to the offence, and this unwillingness will no longer exist. Prosecutions no less than convictions will multiply, the sentence of the law will be carried into force, and crimes will eventually diminish.

"In considering this question as it deserves, it is almost impossible to avoid alluding to some other branches of the criminal law. I would therefore solicit the attention of the House to the offence of stealing to the amount of forty shillings in a dwelling-house,—an offence, which, like that now under discussion, subjects the perpetrator to the penalty of death. From the returns now on the table it appears that within a period of eight years, from the commencement of 1808 to the end of 1815, no less than *one thousand and ninety-seven* had been brought to trial. Of these, *two hundred and ninety-three* only have been capitally convicted, and *not one* has been executed. In 1816 *one hundred and thirty-one* more persons were tried for the same offence, of whom *forty-nine* were capitally convicted, and *one* (whose case was accompanied by circumstances of great aggravation) was executed. So that out of *twelve*

hundred and twenty-eight individuals tried, *three hundred and forty-two* only have been capitally convicted (the Juries either acquitting the *eight hundred and eighty-six*, or finding them guilty of stealing to a less amount), and only *one* person has been executed. Is this a state of law which it is desirable to continue?

" In this offence, as well as in that which is the subject of the present Motion, it has become the general practice never to enforce the extreme penalty of the law except in some particular and extraordinary cases.—In many offences, however, the very reverse of this principle prevails. Any relaxation in the punishment denounced by law, far from being customary or expected, is a rare exception to the general rule. The offences, to which I more particularly allude, are those of Fraudulent Bankruptcy and Forgery. With respect to the former, those at all acquainted with the subject, must know what a number of fraudulent cases have occurred, especially during the last forty years. By the 5th of George II. any bankrupt who refuses to appear to his commission, or who conceals or embezzles property of the value of £20, is guilty of felony without benefit of clergy. This is a crime for which, it has been long understood that no mercy is to be expected from the Crown. So rigorously have the interests of trade been supposed to require that this law should be enforced, that there is only one instance of an offender

against it, being pardoned, and that under very peculiar circumstances. But the consequence of this rule is, that though the crime is very common, prosecutions and convictions for it are extremely rare. During a period of eighty-five years, there have been only four instances of conviction for fraudulent bankruptcy. Whilst the punishment is so dreadful, men are unwilling to prosecute. Creditors are often defrauded to a large amount, but they allow the offenders to escape without punishment, because they perceive no alternative between impunity and the dreadful certainty of shedding their blood. Were the punishment less severe, I am satisfied that the prosecutions would be more frequent, and the crime itself more rare.

"The offence of Forgery has also greatly increased.—This may be perhaps in a great degree attributable to the immense paper currency not merely of the Bank of England, but of other bodies, and to the general augmentation of the number of paper securities. Be the cause, however, what it may, the severity of the law seems in no way to promise any diminution of the crime. It has multiplied and is multiplying, in spite of the numerous statutes which denounce it in every form, and which are almost invariably carried into execution. To what purpose then is such extraordinary rigour persevered in, if it fail to produce the only effect which can justify its infliction? The frequency of capital punishment in cases of

forgery has had the result, I am fully persuaded, of exciting a strong feeling of compassion on the part of the public towards the sufferers, and of deterring many from proceeding against similar offenders. Indeed, some recent examples of this punishment have made a deep impression on the public mind. This day se'nnight two women were executed for forgery; and this very morning, two boys, the one sixteen, and the other seventeen, years of age, would have been executed for the same crime, had it not been for the exertions of two hon. members of this House (Mr. Bennet and Mr. Alderman Wood) who have detected a conspiracy for the purpose of their seduction, and who have successfully pressed a recommendation for the suspension of their punishments.—Is it possible that such spectacles as these can have any other effect than to produce, not obedience to the law, but compassion for those who transgress it?

"If the sanction of the law is insufficient to prevent the crime, it is calculated to produce the worst effects. There is not only the loss of lives, but the deterioration of moral feeling, which such exhibitions are calculated to occasion. It is the duty of the Legislature to inculcate respect, not disregard, for human life. This sentiment has been much better expressed by Mr. Burke, in speaking of the punishment of a great many persons for political crimes. 'It is certain,' says he, 'that a great havoc among criminals hardens, ra-

ther than subdues, the minds of people inclined to the same crimes; and therefore fails of answering its purpose as an example. Men who see their lives respected and thought of value by others, come to respect that gift of God themselves. To have compassion for one's self, or to care, more or less, for one's own life, is a lesson to be learned just as every other; and I believe it will be found, that conspiracies have been most common and most desperate, where their punishment has been most extensive and most severe. Besides, the least excess in this way excites a tenderness in the milder sort of people, which makes them consider Government in a harsh and odious light. The sense of justice in men is overloaded and fatigued with a long series of expectations, or with such a carnage at once, as rather resembles a massacre, than a sober expectation of the laws. The laws thus lose their terror in the minds of the wicked, and their reverence in the minds of the virtuous*.'

"Before I sit down, I may be allowed to advert to a public spectacle which has been recently exhibited at Newgate, in the case of a wretched man who, being accused of murder, destroyed himself. It is stated in the newspapers of the day, that the mangled and bloody corpse was exposed on an elevated platform, with a small gallows erected over it, to which was appended the instrument of

* Thoughts on the approaching Executions.

destruction,—and that in this manner, conducted by the common executioner, and attended by an immense crowd of men, women, and children, it was borne in procession to the place of interment! —Such a horrid exhibition, I am persuaded, is calculated to produce the worst effects on those beholding it. And what authority is there for it? —All that it is justifiable to do with the body of a man on whom a Coroner's Jury has pronounced a verdict of self-murder, is to bury it without the rites of the Church. Is it not then a grave matter of complaint, that a sheriff, or any other person, should take upon himself to pronounce an individual under such circumstances (however flagrant the case may appear) guilty of another crime for which he has not been tried, and to cause his exhibition in so hideous a form, and in a way so disgraceful to the character of the country, and so injurious to the morals of the people?—The House well remembers the strong and impressive manner in which a late right hon. Gentleman of distinguished talents reprobated a similar scene which was allowed to take place a few years ago. Such disgraceful exhibitions deserve to be noticed, and I trust they will not occur again.

"I will detain the House no longer than to move for leave to bring in a Bill to repeal so much of the 10th & 11th of William III. as takes away the benefit of clergy from persons convicted of

stealing privately in Shops or Warehouses property to the value of five shillings."

Mr. John Smith and Sir John Newport supported the Motion, and confirmed the statements of Sir Samuel Romilly. The instances of fraudulent bankruptcies, they said, were innumerable, though so rarely prosecuted.—The crime of forgery had also lamentably increased. Numerous cases were hushed up, from the indisposition of the parties to prosecute. The Bankers of London had formed an association for the prosecution of forgeries, in order that no individual pity might interpose between the offence and punishment; but even this expedient had been found unavailing. Leave was given to bring in the Bill.

INDEMNITY BILL.

March 11th, 1818.

The Attorney General having moved the Order of the Day for going into a Committee on the Indemnity Bill, Sir Samuel Romilly rose, and spoke to the following effect.

"Sir, objecting as I do to every principle upon

which this Bill proceeds, I should certainly, but for the thinness of the House, have opposed it in some earlier stage. I rise now, however, to resist its further progress. I rise not from the vanity of supposing that I shall be able to throw any new light upon the subject, but from a sense of its importance, and of the obligations which I am under as a member of the Legislature to protest against the enactment of a measure not less unjust in its immediate consequences to individuals, than dangerous in its principles to the future liberty and happiness of the whole people.

"The proposed measure is not, as it has been called by Ministers, a mere Bill of Indemnity. It is not a Bill to protect an individual from the effects of some accidental excess of discretion under novel and unlooked-for circumstances. It is not an Act to suspend the operation of Penal Laws; not an Act like those which are annually passed under the title of Bills of Indemnity, and which, while screening any men or class of men from the consequences of public prosecution, cautiously abstain from all interference with the private rights of individuals. No,—the object of the present Bill is, in many cases, to annihilate such rights,—to rob the injured and oppressed of every remedy,—to put them out of the pale of English Law. Every Court in the Country is to be precluded from listening to their complaints, and any attempt on the part of the sufferers to obtain

relief, is to be met not merely with a denial of justice, but with the oppressive penalty of double costs. To crown the whole, the proposed indemnity is to refer in its operation, not only to occurrences under the Suspension Act, but to every abuse of authority which may have been committed by Ministers or their agents since the 26th of January 1817.

"Such, Sir, are the objects of this Bill, and it behoves us to reflect most seriously upon them before we suffer it to pass into a Law. As the guardians of public liberty,—as the Representatives of the People, it becomes us to approach the consideration of such a subject,—affecting as it does the dearest interests of the community,—with the most sacred and solemn feelings. Nothing but the clearest demonstration of its necessity,—nothing but the strongest and most indubitable proof, that it is required for the preservation of the State and for the safety of the People, can possibly justify us in assenting to it. To render justice to the oppressed, should be the first object of all Governments. It is peculiarly that of the British Constitution. The great charter of our liberties, confirmed by more Parliaments than we have had Kings,—the Petition and Bill of Rights,—every Statute of which as Englishmen we are or ought to be proud,—all bear record that the Government of England is a Government of Law and Justice.—Justice shall be denied or delayed to no

man,—'*Nulli negabimus aut differemus justitiam vel rectum*,'—is the sacred maxim of English Law. It is indeed the foundation of the whole fabric of our Government;—it is the very essence of those Laws which are equally the inheritance of the Sovereign and the subject, and which both are alike interested to preserve.—It was with this view that the wisdom of our ancestors provided, that every King or Queen of this realm should, at the time of Coronation, solemnly promise and swear to govern the people according to the Laws, and to cause law and justice, in mercy, to be administered throughout the land! — This oath, while it imposes the most sacred obligations on the King, not less solemnly recognises the fundamental rights of the People.—Is the House prepared to violate these principles? Can it at once accede to a measure which declares, that for a certain class of His Majesty's subjects there shall be no law and no justice?—The duty which we have at this moment to discharge is no less sacred and solemn than a judicial inquiry; and shall we, as men of honour and conscience, pronounce a verdict, before we are fully acquainted with the facts,—before we have heard the evidence on both sides?

"The House is aware of the great number of petitions which have been presented to it, complaining of oppression, cruelty, and injustice; but we have not yet investigated them, and are con-

sequently in total ignorance whether the allegations, which they contain, are true or false. And yet, placed as we are in this extraordinary and unparalleled situation,—sitting, as we do, in judgment upon every interest which can be dear or valuable to the community,—we are called on to decide at once, that the complainants shall have no redress,—that the doors of every Court of Justice shall be barred against them! Such will be the consequences of adopting this Bill, and I would impress them seriously upon the attention of the House, that it may not be deluded,—that it may remember the responsibility which it owes to its Constituents, and proceed with that circumspection and anxiety, which the importance of the case demands.

"This Bill embraces a variety of objects, but they may be all considered under three heads. The first is indemnity to Ministers for the acts of authority which they have exercised during the late alarming state of the Country, as the Reports of the Committees have described it:—the second is indemnity to Magistrates under similar circumstances:—the third is indemnity to Informers, against the dangers, which, it is supposed, may attend the disclosure of their names and evidence in a Court of Law.—Now, as far as the Bill relates to the first of these objects, it has been considered by many persons in a most erroneous point of view. Several Gentlemen, and amongst

them the Members for Bristol and Sandwich in particular, have contended that the Bill of Indemnity is a necessary consequence of the Act of Suspension,—that the Legislature having intrusted Ministers with extraordinary powers, is bound to protect them in the exercise of those powers. A more mistaken notion than this can hardly be entertained. For the exercise of the powers given by Parliament Ministers require no indemnity. The Act, which conferred the trust, sanctions every thing necessary to be done in pursuance of it. Whether the present Bill passes or not, Ministers can never be called in question in any Court of Law for having done that which Parliament has authorized them to do. Were Ministers to take upon themselves to lay an embargo on all the vessels in our ports, a Bill of Indemnity might be necessary to protect them from the consequences; but will any Gentleman say it would be necessary, if they had previously obtained the sanction of an Act of Parliament to the measure? The Suspension Act of the last Session operated in the same manner. It empowered Ministers to detain, without bringing to trial, individuals suspected of treasonable practices; it prevented the individuals so arrested from resorting to the Habeas Corpus or the Common Law of the land. Why, then, should it be conceived, that a special Bill of Indemnity is necessary for the protection of Ministers? If they now require to be

indemnified, it can only be in consequence of acts which the Suspension did not authorize,—it must be *not* for detaining men in custody under that law, but for imprisoning and treating them in a manner contrary to all law.

"It has been maintained by my hon. and learned Friend, the Attorney General, as well as by the noble Lord near him, that in no case has any warrant of detention been issued except in consequence of information upon oath. The Reports of the Secret Committees of both Houses state the same thing. If such be the fact, what need is there of a Bill of Indemnity?—But how is the fact established? On what authority, except on that of the Ministers themselves, and of their own Reports?—But supposing the assertion to be true, supposing that no one has been arrested but upon information taken on oath, what satisfaction can the knowledge of this circumstance afford to the Country, when it also considers the other circumstances under which the information has been given? We learn from the Attorney General, that he cannot, without a breach of faith, disclose the sources of information on which Ministers have acted, because that information was obtained under promises of secrecy. If such promises were held out, the House has been grossly misled and imposed on, by the allegations contained in the Reports.—Is it on information given under such circumstances that the personal freedom and safety of Englishmen ought

to depend? Is it in oaths extorted under assurances of perpetual secrecy, that they can hope to find security against the most unjust and cruel imprisonment?—In the ordinary course of law, the accuser knows that he will be confronted with the accused,—that his name will go forth to the public,—that his evidence will be sifted, and, if found to be false, will expose him to the penalties of perjury. These are checks which must operate on the most abandoned,—even on those with whom the sense of religion can have no influence. But what control exists over witnesses under circumstances like the present? What is to restrain a herd of Spies and Informers, interested in giving testimony, and giving that testimony under the seal of secrecy? Constituted as the minds of such men frequently are,—awed by no scruples of conscience, or feelings of humanity, what is to deter them, if the terror of exposure and punishment be removed, from preferring the most unfounded charges,—from gratifying any suggestions that interest or malice can supply?—Yet this is the evidence without which, it is the boast of Ministers, that they have deprived no man of his liberty! This is the evidence which, though wanting all the sanctions of a legal obligation, a Committee of this House has thought it satisfactory to notice as testimony upon oath!

"It has been said that Government should obtain credit, on their own assertions, that they have not abused the powers which have been in-

trusted to them, or, more properly speaking, the extraordinary powers with which they have invested themselves,—for that is the real fact. This may be so; it is certainly possible that Ministers may not have abused their authority; but the House has no right to presume that such is the case. The only inquiry, that has taken place, was one conducted in secrecy, by Ministers themselves; and this,—though the table is covered with complaints of their cruelty and oppression! An hon. Gentleman * whom I do not now see in the House, and whom, as I do not recollect the name of the place he represents, I cannot describe otherwise than as the Gentleman who declared, that he supported this Bill for the sake of his own consistency,—has said, that the allegations in every one of the Petitions have been disproved.—Every one disproved!—What an assertion from any man at all acquainted with the principles of judicial inquiry! Surely the hon. Gentleman does not mean us to construe denial into disproof, or to persuade the House that there is any thing but denial to warrant his assertion. That denial, too, the mere denial of the accused,—to how few indeed of the numerous Petitions on the table does even *that* apply? Of eleven Petitions, which

* Mr. Freemantle.

formed the subject of one night's debate *, there were only three in which any of the facts were denied. All the statements contained in all the others remain undisputed.—For my own part I do not mean to say that every allegation in the various Petitions must be taken to be true; I only contend for the necessity of that inquiry, which, whether true or false, they so imperiously demand. If they are true, reason, humanity, every consideration of policy and justice, forbid that the sufferers should be precluded from redress;—if, on the contrary, they are false, the investigation should take place for the sake of Ministers,—for the vindication of the calumniated character of Government. It would be an opportunity to the accused, of adducing evidence in refutation of the charges preferred against them by the Petitioners. Of this, indeed, neither the Ministers nor their advocates,—neither the Gentlemen who have originated, nor those who so emphatically repeat, the denials of such charges, can be unaware; and yet they have both resisted every proposition for an inquiry in this House, and are even proceeding to exercise their powers of legislation by closing up the avenues to truth, in every other tribunal!—What is the inference from these facts?

* Debate on Lord Folkstone's Motion on the 17th of February 1818.

It is, indeed, obvious.—But will not the House pause? Will it not reflect on the impression which its conduct must make in the Country, if it grants indemnity to the oppressor, when it refuses all inquiry into the complaints of the oppressed;—if it gives protection to the accused, while it disregards the Petitions of their accusers? If the House is to act in this manner, it may as well say to the people at once, 'Do not present any Petitions to us;—however gross the oppression and injustice of which you complain, we will not attend to you.'—Indeed the conduct which some Gentlemen here seem resolved to pursue is rather an intimation to oppressed individuals that they had better not petition this House at all. For what is the result to those presuming to complain? What, but to have their sufferings aggravated by some stigma affixed to their character,—to be charged with falsehood,—to have the charge rendered current by repetition, and that, perhaps, through the very channels which exclude their cases from a fair and open issue?

"Such is the course of those who require Parliament to legislate on the transactions of the last fourteen months, without allowing any inquiry either into their nature or extent.—But there has been, I hear it asserted, there has been an inquiry. —Yes! an inquiry before a Committee chosen by Ministers themselves,—an inquiry before a Committee, of which Ministers did not blush to nomi-

nate themselves Members!—On the first reading of this Bill a right hon. Gentleman (Mr. Canning) said that Ministers had taken no part in the Debate, because it did not become them to be too eager on a subject which affected themselves. On this ground the right hon. Gentleman justified the silence of his Colleagues.—How comes it, then, that these Ministers are not more consistent? How comes it that persons so diffident of their own judgment, and so desirous of submitting to the opinion of others, have taken any part in the Secret Committee?—It seems, however, that, though Ministers decline to defend themselves in public, they have no objection whatever to become the most active Members in a private Committee, selected by themselves; they feel no scruples in supplying all the evidence,—in garbling or distorting,—in bringing forward or keeping back, such parts of it as may happen to tell for or against their own case. With all their affected bashfulness and delicacy about standing forward in this House, and endeavouring openly to explain their conduct,—they have not blushed to sit, in secret, as the accusers, witnesses, and judges in their own cause, and finally to draw up a Report to acquit themselves! Such has been the conduct of Ministers,—a conduct, in my opinion, the exact reverse of every thing which conscious rectitude and honest feeling might be supposed to dictate on such an occasion!

"A great deal has been said of the mode in which the Committee was appointed. A right hon. Gentleman (Mr. Canning) has gravely assured us, that neither the name of his noble Friend (Lord Castlereagh) nor that of any of his colleagues would have appeared on the list, if a majority of the House had not decided that it should be there. In fact, the Country is to believe, that a nomination by ballot has the effect of excluding all undue influence, and giving the fair result of the opinions of the House. Such might be the effect of a fair ballot, but not of a ballot, where the Minister sends round to his adherents lists of the persons whom he intends to compose the Committee. This is to substitute a cabal for a ballot, the principle of the latter being, that one man shall not know how another votes. —That Ministers should be partial to this mode of proceeding I am not surprised. It enables them to accomplish in private, what they might occasionally find it difficult or hazardous to attempt by public vote.—In resorting to a ballot they are well aware, that they can never be in a minority.—The House is composed of different parties; the Ministerial party, which is the largest, or Ministers would soon cease to retain their power;—the Opposition party, which though smaller, yet when assisted by others, now and then becomes a majority;—and, thirdly, the Neutrals, or those who professing to be of no party, sometimes vote on one side, and some-

times on the other, and who, to use a legal phrase, may be said to be *in transitu*.—Now, if a fair ballot were to take place,—if every Member were left to put into the glass the names of those whom he wished to appoint without any previous communication or influence, it is possible that the Neutral party or the Gentlemen *on their passage* might occasionally throw in a preponderance against the Ministers;—but whilst the lists are made out by Ministers themselves, and are sent to none but their firm adherents, it is obvious that the other parties, acting without concert, cannot produce a majority of votes.

"The right hon. Gentleman has said, that he is old enough to remember the time, when there were two lists in circulation on every ballot; that, as regularly as one list came from the Treasury, another proceeded from the Opposition, and that those two lists were handed through the House, producing a wonderful correspondence between the parties. I cannot contradict the right hon. Gentleman, though certainly since I have sat in this House, no such practice has ever prevailed. But whatever may have been the practice of other times, which I shall not attempt to justify, it is impossible that any thing more flagrant could have ever occurred, than that which took place on the last ballot. For it is a fact—one of the scrutineers (Mr. Calcraft) has openly asserted it in this House—that, *out of one hundred and three lists*

put into the glass on that occasion, ninety-seven were in the same hand-writing! To escape such detection in future, I would recommend that the lists should be printed, unless indeed Ministers should be restrained from adopting that method by their love of economy!—I am astonished that Gentleman can look at the mode in which the Secret Committee has been appointed, and place any reliance on the impartiality of its proceedings. And yet, this is the Committee to whose authority the House is desired to bow,—upon whose statement alone,—a statement drawn up by Ministers themselves,—the House and the Country are required to believe, 'that the Government has acted in all the recent transactions with as much moderation and lenity as was compatible with the paramount object of general security!'

"It has been argued by my hon. and learned Friend (the Attorney General) that a Bill of Indemnity is the necessary consequence of the Suspension of the Habeas Corpus, and to support this assertion he has cited several precedents. Now I will venture to say,—and I have taken some pains to inform myself on the subject,—that no precedent can be found at all applicable to the circumstances of the present measure, except that of 1801. That an Act of Indemnity has sometimes followed the Suspension of the Habeas Corpus, I admit; but it is by no means, therefore, to be concluded that the one is the cause of

the other. To argue that, because one thing follows another, the former is the natural consequence of the latter, would be a sophism for which, as my learned Friend knows, a name can easily be found among logicians.—The House will do well to recollect the state of the Country, when Acts of Indemnity were resorted to in former times. Undoubtedly soon after the Revolution, as well as after the rebellions of 1715 and 1745, the suspensions of the Habeas Corpus were followed by Bills of Indemnity. But the Indemnity was in neither of these cases, granted as a consequence of the Suspension. It was the agitated and endangered state of the Country, calling on those in authority to exert themselves on the spur of the occasion,—to resort, perhaps at all hazards and without a moment's delay, to measures which the safety of the State might demand, but which the Legislature had neither anticipated nor provided for;—it was the extraordinary crisis of public affairs, and not the Suspension of the Habeas Corpus, that rendered necessary a Bill of Indemnity at those particular periods. Though the former had not passed, the latter would not have been less necessary on those occasions.

"In the year 1780, a Bill of Indemnity was passed, though the Habeas Corpus had not been suspended. That was a period, not indeed of any thing to be dignified with the name of rebellion, but of most atrocious violence and outrage in the

metropolis, which caused for the moment, the suspension of all Government, and which required the most prompt and efficacious measures for the restoration of public tranquillity. It was deemed necessary, in fact, for the Magistrates to take some steps not altogether warranted by the strict letter of the law. A Bill of Indemnity was, therefore, passed to screen them from the consequences. But had the Habeas Corpus been suspended at that time, will my hon. and learned Friend say, that a Bill of Indemnity would have been necessary for their protection?—The Ministers, however, of that day did not think proper to propose the Suspension of the Habeas Corpus in order to suppress the tumult of the rabble! And yet in the course of the last fourteen months, that Act has been twice suspended, and that, too, when it had been clearly proved that, whatever was the existing spirit, it was confined to a few miserable wretches, reduced to the lowest poverty and distress,—when it was admitted on all sides, that none of the higher and scarcely any of the middle ranks were implicated!—What then was the danger that existed? Why has the Constitution of the Country been suspended? Why have the people been deprived of their liberties, when the ordinary laws were sufficient to meet all the dangers that might arise?

"When Ministers and their advocates speak so confidently of practice and precedents, and of

the necessary connexion between Acts of Suspension and Bills of Indemnity, they seem to have forgotten both Atterbury's conspiracy and the American War. In neither of those cases was the suspension of the Habeas Corpus followed by an Act of Indemnity. The only precedent at all in point—the only precedent which can be said, in any degree, to sanction the measure now proposed for the adoption of the House, is the precedent of 1801; and that, as I shall endeavour presently to show, is one that would be much 'more honoured in the breach, than in the observance.'

"I now come to the second object of the Bill—the protection of the Magistrates from the consequences of any illegal acts committed by them during the last fourteen months. The only case to which the Attorney General has referred in justification of this part of the Bill, is that which occurred at Manchester,—a case, which (however anxious some Gentlemen may be to encourage Magistrates to what is called '*a vigour beyond the law*') I little thought to have heard of as a ground of the present proceeding. Does the House recollect the circumstances of that case?—At a public meeting which had been previously advertised, the Magistrates of Manchester thought proper to take up a number of persons, whom they afterwards committed to prison, in order, as it was stated, to have them tried at the following Sessions,—which trial the prisoners themselves de-

sired and were led to expect. But their case was removed by *certiorari* to the Court of King's Bench; and at the Summer Assizes, instead of having to defend themselves against any of the imputed charges, they were at once acquitted,—the learned Gentleman who represented the Attorney General on that occasion, stating that in consequence of the restored tranquillity of the neighbourhood and the reluctance of Government to punish, no evidence would be offered on the part of the prosecution. Thus were the prisoners discharged without any proof that they ought ever to have been imprisoned,—discharged too under an insinuation, that their release was owing, not to their own innocence, but to the lenity of Government! Thus did Ministers seek to obtain credit for themselves at the expense of these men, who, after long mental and bodily suffering—after imprisonment, and the loss perhaps of character, friends, and means of livelihood, were turned adrift on the world without inquiry or redress!—If they are innocent, why have they been so oppressively treated?—If they are guilty, what have the Magistrates of Manchester to fear from any actions which they may choose to bring against them?—Is it then fair,—sitting as we are in the dark,—without knowing any one circumstance connected with the detention of these men,—is it fair to demand of Parliament a sweeping protection for the

Magistrates, who, if the arrests made by them are of the nature which their friends assert, can have no possible motive for requiring it? If their conduct be such as it is described, there already exists a protection for them. The Act of the 24th of George II. renders every other indemnity unnecessary. That Act declares that no action shall be brought against any Magistrate for any thing done in the execution of his office unless commenced within six months after the act committed. Is it pretended, that any action has been commenced within that time?—If so, and the case be of a nature to warrant the interposition of Parliament, let the facts be clearly shown, and no one will hesitate to support any reasonable measure, not inconsistent with its particular circumstances.

"This Bill extends back to the 26th of January 1817. Is there a single syllable in any of the Reports of the Committees, either of the last or the present Session, to justify this retrospective operation? I put it to the House, or at least to that part of it which professes to be independent and not under the influence of Government,—I put it to those Gentlemen who stand, as it were, between Ministers and Opposition, and who take credit to themselves for the honesty of their Parliamentary conduct, unbiassed by any party feeling,—I put it to them, how they can support this measure,—how, on the mere unsupported sugges-

tion of Ministers, they can at once consent to extend this total denial of justice even to a period beyond that pointed out in the Reports on which the proceeding is founded? If they are thus ready to bow to the desires of Ministers on this occasion; if they can extend the abolition of law to the period now proposed, I am persuaded that they would have done the same to any other period that might have suited the views of Government. But what is the object of this mysterious, unexplained, proceeding? Is it or is it not intended to meet some flagrant case,—to screen some particular criminal from the justice that might otherwise await him? Will any one,—can any one possibly believe that there does not lurk behind the measure some sinister object that cannot bear the light?

"How grossly the law may have been violated by the Magistracy, many of the petitions now lying on the table, cannot fail to show. Two petitions, in particular, containing charges of a most serious nature, were presented the other evening, and have been suffered to lie upon the table without refutation or even discussion*. In these it is alleged, that the houses of the petitioners were forcibly entered and searched,—their books and papers

* See the petitions of Jonathan Buckley Mellor and Samuel Pilling, booksellers of Warrington; *Hansard*, vol. xxxvii. p. 742; and *Evans*, vol. ii. p. 694.

seized,—they themselves dragged away from their families,—loaded with irons like common felons,—brought before the Sessions, and there condemned without trial, to hard labour in the House of Correction;—and all this in consequence of the Circular Letter of Lord Sidmouth! All this in consequence of a Minister having suggested to Magistrates the propriety of seizing individuals for libel! —If the House, which thought fit to sanction that most unconstitutional interposition with the duties of the Magistracy, had been told of the consequence,—that it would be the loading of persons with irons,—the sending of them to hard labour before trial,—the removal of them by *certiorari*, when their trial would otherwise have come on, in order to continue their sufferings,—if the House had been told that such would be the consequences of that celebrated letter, would they not have replied, that it was impossible? And yet they are nothing more than the almost inevitable result of the step then taken by the Secretary of State! I do not mean to speak disrespectfully of the Magistracy of the country; they are a necessary and most useful body of men, and entitled to the gratitude of the public for their important and gratuitous services. But are there, among so many individuals, no ignorant Magistrates? Are there none, who may be disposed to court the favour of power, and who may possibly imagine that an officious zeal and violence in the cases of

persons denounced by Government, are the surest means of attaining their object?—To such men, the Circular Letter of the Secretary of State offered a temptation to abuse of power, too great to be resisted. This indeed appears to have been the case (if we believe the uncontradicted statements of the petitioners) in the instances to which I have referred.—The seizure of papers and the seizure of persons seem to have been with the Magistrates, mere correlative terms. The persons were seized under a pretext of having seditious papers; and the papers were seized under the pretext of belonging to seditious persons. Each was reciprocally suspected on account of the other!—The punishment, to which the sufferers were thus exposed, has been such as they would not have suffered, if convicted. A punishment so atrocious could not have been inflicted. It is too monstrous even to have been attempted.

"Every Gentleman, who hears me, is aware of the important decision of Lord Camden in the Court of Common Pleas on the illegality of entering into private houses, and seizing papers, under the pretence of looking for seditious libels*. Every Gentleman must be aware of the sensations created not only in this country, but also abroad, by the act which gave rise to that decision. On

* See Howel's State Trials, vol. xix. p. 982—1030; and 2 Wils. p. 275.

that occasion, when the act was so justly pronounced to be illegal, what was the fact? The seizure was made at mid-day under an order of a Secretary of State. Yet now it seems to be a matter of no moment, for Magistrates at any hour to invade the private dwelling of an Englishman on pretence of searching for papers, and even to drag him from that dwelling to prison, and to load him with irons like a murderer!—Thus men suspected only of libel, are punished upon the private order of a Magistrate with greater severity than they would have been exposed to, even if they had been convicted of the alleged offence by a jury of their countrymen.

"There is another case of the same kind, but of still greater cruelty. It is so peculiarly affecting, that I am astonished, no notice has been taken of it. It is true that I have for it only the authority of the newspapers, but it has been repeatedly detailed by them, and without receiving contradiction. It is the case of a person of the name of Swindells*, whose house was entered at midnight by a Mr. Samuel Wood and others, as he lay in bed with his wife, who was far advanced in her pregnancy. Under pretence of searching for

* Sir Samuel Romilly afterwards presented a petition from Swindells, offering to prove the case detailed, and calling on Parliament for redress. See *Evans*, vol. ii. p. 1015; and *Hansard*, vol. xxxvii. p. 1069.

persons, who, they said, had lodged in his house, they ransacked every corner, broke open trunks, and stripped him of papers and other articles of his little property. But the scene did not end here; for, in consequence of the fright, his wife was prematurely delivered, and died; the infant, deprived of the care and succour of its mother, also died.—The wretched man was then arrested and dragged to Chester Castle, leaving another child only one year and eight months old, to be conveyed to the parish workhouse, and from thence, in a short time, to the parish burying-ground.—After remaining for upwards of five weeks in gaol, where he subsisted on bread and water, having no means of procuring any thing else, he was discharged without trial,—impoverished, ruined, a widower, and childless!—And all these cruelties have been inflicted on a person guilty of no crime!—Are these wrongs to remain unredressed?—Gracious Heaven!—But do the Gentlemen opposite imagine, that because they can suspend the laws of this country, they can suspend the laws of nature?—Can they contemplate the consequences of such atrocious proceedings, and bow before their God, or look their fellow men in the face?

"I am glad to see a learned Gentleman (the Solicitor General) taking notes; but he cannot invalidate the judgment of Lord Camden,—he cannot touch either the doctrines or the decision

of that venerable and upright Judge,—he cannot deny or justify the proceedings that have taken place against persons suspected of libel.—They are proceedings more suited to the government of Algiers than to any government that professes to be directed by laws;—they may be vindicated under such a government,—they cannot be mentioned in this House without execration and horror. And yet, with such statements before us, uncontradicted, unexplained, we are now called upon to exclude the sufferers from all redress,—to close the avenues of our courts of justice against them,—and to grant indemnity to all who have violated the laws, under pretence, as Ministers call it, of preserving the public peace. The House may grant indemnity; it may throw a shield over the authors of such cruelties, and screen them from legal prosecutions;—but having done this, it cannot shelter them from the execrations of mankind; it cannot protect them from the reproaches and tortures of their own consciences!

"My hon. Friend, the Member for Durham (Mr. Lambton), has said that this measure is the winding-up of that system of injustice, which has been always pursued and encouraged by Ministers, Would to heaven that it were so!—I cannot consider it as the winding-up, but as the commencement, of a system which carries with it every species of petty and unbridled tyranny through the whole kingdom. To me it appears as a prelude to

fresh exertions of power, and further denials of justice. The Reports of the Committees of both Houses declare, that it will be necessary for Magistrates to persevere in the same exertions which they have hitherto made. 'It appears' (says the Committee of the Lords), 'that the continued vigilance of Government and of the Magistrates will still be necessary.'—That is, it will still be necessary to continue the same illegal proceedings for which indemnity is now required. The language of the Report of our own Committee is still stronger. 'Your Committee' (they say) 'would deceive the House, if they were not to state it as their opinion, that it *will still require* all the vigilance of Government and of the Magistracy to maintain the tranquillity which has been restored!'—This appears to me to imply nothing less than this—'Do you, the Magistrates, go on as you have already done, for that course is necessary to our purpose.'—The House may, therefore, expect that at this time next year, Ministers will again come forward with another Bill to indemnify Magistrates against the consequences of their illegal conduct. It has been necessary to violate the law; it will be necessary to violate it again; and the indemnity which is bestowed upon the violators in the one case, cannot of course be withheld from them in the other.

"To what scenes of horror this contempt of law, this familiarizing men to tyranny on the one

hand, and to a refusal of justice on the other, may ultimately lead, the events which occurred some years ago in a sister Island, too clearly show. I mean nothing personal; I should be sorry to embitter the discussion of this question with any thing personal. But a great and useful lesson has been taught by the transactions in Ireland. At the period to which I allude, the Magistrates—men distinguished for their loyalty, as it was called—were stimulated to acts of atrocity, at the mere recollection of which humanity shudders;—and those Magistrates were afterwards indemnified—nay rewarded with titles and honours!—A noble Lord has said, that it is desirable that those transactions should be buried in oblivion.—It would have been happy indeed, if they had never existed;—but having existed, they ought to be recollected and repeated for the instruction of all succeeding ages.—Buried in oblivion they never can be; they form too important an epoch in the history of these realms to be forgotten. Impartial posterity will remember them, to do justice to all,—to those who were the actors, no less than to those who were the sufferers, in those dreadful scenes. I will not disgust the House with a detail of the tortures which were then inflicted. No one that has heard, can forget them. Yet with such levity were these outrages treated in the Irish Parliament, that an hon. Member, in adverting to the indignation which they had so justly excited elsewhere,

is reported to have said, 'All this outcry is about the sore back of a Catholic*!'—To such a want of feeling—to such excesses of cruelty are men insensibly led when they have once departed from the paths of law and justice, and familiarized themselves with acts of violence and arbitrary power. What is to protect England from the calamities which have desolated Ireland? The same system which has caused wretchedness and degradation there, will, if once tolerated, produce similar effects here. Man is man under whatever government he is placed, and it is the tendency of human nature to exceed the authority intrusted to it. Let the fate of Ireland then be a lesson to England,—let the House watch with jealousy and alarm every attempt on the part of Government to encourage Magistrates in the exercise of a discretion beyond the law.

"It remains for me to speak of the third object of this Bill—namely, the indemnity to be given to Informers, or rather the protection to be afforded them from the supposed danger that might attend the disclosure of their names and testimony. In England this is a policy quite new and unheard of. The Act of 1801, which originated with the Members of the present Administra-

* See the case of Wright v. Judkin Fitzgerald, and the subsequent proceedings thereon in the Irish House of Commons. *Howell's State Trials*, vol. xxvii. p. 759, &c.

tion, is the only precedent that can be cited in support of the present measure; and that, from its gross and shameful injustice, ought to be avoided rather than followed. That Act granted an indemnity for transactions which had taken place eight years before it passed. It inflicted double costs on those who might have brought actions at a time when no penalty attached to their seeking redress. It punished them for not having anticipated, under the pressure of immediate grievances, the measure of retrospective injustice which Parliament had yet in store for them. If they had actually recovered judgment, they were deprived of its benefit, and punished for having obtained it. No judgment—no redress, was allowed; but the victims of injustice were, by Act of Parliament, obliged to remain under all the wrongs which they had sustained. This is the Act, which Ministers and their advocates have pleaded as a precedent for the present Bill; and it may be pleaded as a precedent for indemnifying Informers; for, like the one now before us, it recites, that 'it is necessary for the safety and protection of the persons by whose information and means traitorous designs have been discovered, and for the future prevention of similar practices, that such information and means shall remain secret and undisclosed."

"But will any one argue that the circumstances, under which that Act was passed, bear any analogy to those under which the present

Bill is demanded? England was then engaged in a war with France, between whose government and certain persons in this country, an active correspondence was alleged to have been carried on. The information of that correspondence was said to have been received from persons within the power of the enemy, and who, if their names were disclosed, would be exposed to the effects of his vengeance. Such was the plea on which a Bill of Indemnity was then granted. Is there any analogy between the danger apprehended from a disclosure at that time, and the danger which is represented now? The objection to disclosure now is, that persons, who have given information, may be exposed to popular outrage or private revenge. Will the hon. and learned Gentlemen opposite say, that in the late transactions, any witness has been debarred from giving his evidence through such apprehensions? Did any of the witnesses who gave evidence on the trials in London, at Derby, or at York, express any unwillingness to come forward? Did any of them make complaints to the Court of the want of protection, or the fear of danger? Has any one since received either injury or threat for the testimony which he then gave? Is there a single expression in the Reports of the Secret Committees to show that any alarm on that subject has ever been felt?—In Ireland, I admit that witnesses have been sometimes deterred from coming for-

ward by apprehensions of personal violence; but in England such cases are wholly unknown. No danger is to be apprehended by any witness in this country. And yet it is solely on the plea of such danger that this part of the Bill is founded! The House is now called on to embody in an Act of Parliament, and to communicate to the world, a belief that the lives of men who have given information to the Government, will not be safe in this country unless the Legislature throw a shield over them. When every thing manifests a contrary inference, I have a right to contend, that to ground a Bill of Indemnity on such an hypothesis, is to ground it on a notorious falsehood; for, according to the old rule, '*De non apparentibus et de non existentibus eadem est ratio!*'—The plea of danger is, I repeat, an unfounded pretext—a false pretence. There is not a man, who hears me, but must feel it to be such, and that the real object of Ministers is to conceal from public reprobation the unworthy means to which they have resorted in pursuance of their schemes.

"But it is not alone to transactions which have occurred, that this indemnity is to be extended. The same vigilance—the same relaxation of Law—the same violation of the rights of the subject, are recommended to be persevered in; and no doubt, for these future services, a similar indemnity will be required. In plain English, THIS IS THE COMMENCEMENT OF A NEW SYS-

TEM. And a new system it truly is, when the Government of England sends forth its agents amongst the miserable and irritated to ripen discontent into disaffection. After all that has been said on the subject of Spies, it is not my intention to dwell at any length on the admitted employment of those persons. I recollect the manner in which my objections to the immorality of this system were received. It is a system, however, which though defended, or even applauded in this House, I will never cease to reprobate. No circumstances, no perils can exist to warrant the employment of Spies in the way in which Oliver has been employed; no state of affairs can sanction an expedient which would disgrace the worst instruments of the worst Government. The facetious remarks of a right hon. Gentleman opposite (Mr. Canning) are calculated rather to ridicule morality, than to justify the use of Spies. Confounding together two things most different in their nature, or rather representing them, for his purposes, as the same, — he has enlivened the House with such humorous jests on polygamy and the breach of moral duties, as to make his hearers, in their merriment, forget the great principles involved in the question before them.—No one has ever said, as the right hon. Gentleman must be well aware, that Government was not to avail itself of information, though derived from the most profligate characters. But receiving inform-

ation from them, and employing them as Spies, is not quite the same thing.

"Another of His Majesty's Ministers (Mr. B. Bathurst), a person of a less sportive vein,—who thinks it unbecoming to treat such subjects with levity,—has come forward with the high names of Lord Holt and Lord Eyre to justify the use of Spies. Lord Holt, however, whose character, I am sure, requires no vindication at this time of day, is no authority whatever for employing such persons. That learned and upright Judge has merely approved of receiving the testimony of Informers;—he has not said a word to countenance the employment of Spies.—As to Chief Justice Eyre, had he sanctioned the practice, it would have been to me a subject of no less regret than surprise. He was a virtuous and independent Judge and an excellent man. He had the merit of rising from an inferior situation to the high office of Chief Justice, not by avowing principles pleasing to men in power, or by the subserviency of his conduct, but by the thorough knowledge which he possessed of the laws of England, and by the manly integrity of his character. The opinion of such a man must have considerable weight. But what has he said with reference to this subject? On Hardy's trial, Lord Eyre declared, that it was lawful to send persons to seditious Meetings, to take notes of what passed, and that they might afterwards give evidence of what

they had seen and heard. This is the extent of what he said. He did not say that it was lawful to send persons, under false characters, to instigate and impel the discontented to the commission of crimes; he did not assert that it was justifiable for men to seduce, to plot and to conspire with, that they might afterwards enrich themselves with the reward of betraying, their fellow-subjects. No! His Majesty's Ministers cannot sanction such practices by the authority of Chief Justice Eyre. They cannot justify from any thing which that learned Judge has said, '*the fitting out*,' as it has been well expressed, of persons like Oliver. To him and to Castles, the expression is most applicable. On the trials in Westminster Hall, Castles,—that infamous and detestable character,—that criminal wretch, who had been guilty of polygamy,—who had been guilty of forgery,—who had hanged one accomplice and transported another,—who had been the bully of a brothel,—who had been before employed as a Spy,—who, as the persons, against whom he appeared, were proceeding to Spa Fields, had put ammunition into the waggon,—that man, I say, that witness of the Government, was 'fitted out' by the Police, that he might come into Court like a gentleman, and give evidence that the prisoners at the Bar had committed high treason.—His wife also was 'fitted out,' and sent to Yorkshire, that she might not appear on the trial. This is literally 'a fitting out.'

"But what is the case of Oliver? Will the authority of Chief Justice Eyre sanction the manner in which he has been employed? Is it not notorious, that he went into the country, with the knowledge of Government, in the character of a delegate from a Society in London, and that, although he attended at Meetings where others were arrested, he was considered as a person not to be apprehended*? I do not mean to say, that Government had instructed Oliver to excite insurrection; but they must have been aware that the very act of sending him in the character of a delegate, would have that effect. The Reports of the Secret Committees, confirmed in this respect by the trials at Derby, all tend to show, that the hopes of the disaffected centred in London,—that not a man would have stirred if it had not been believed that great numbers were ready to rise in the metropolis. Who then can doubt the effect which must have followed the appearance of Oliver at such a juncture,—as the ambassador, as the accredited agent and envoy from the metropolis,—as a living testimony of the strength and boldness of the men on whose co-operation they had been taught to depend?—Who can for a moment doubt, that the appearance of this London delegate, addressing himself to the passions of the

* See, among other Petitions, that of Benjamin Scoles, in *Evans, vol. ii. p.* 422, *and in Hansard, vol. xxxvii. p.* 458.

distressed and discontented, calling on them to vindicate their rights, and to unite with the thousands whom he represented as devoted to the same cause in other parts, must have encouraged those hopes which terminated in insurrection?

"When my hon. Friend, the Member for Shrewsbury (Mr. Bennet), exposed the conduct of Oliver, and stated that his information was drawn, not from persons implicated in the charges preferred by Oliver, but, from those whom he had in vain attempted to delude; a right hon. Gentleman (Mr. B. Bathurst) laid considerable stress on the suspicion that must attach to those who had listened to the suggestions of this man, and had not denounced him to the Magistracy. That people, who were unemployed and in want of bread, should be impatient of their sufferings, and ready to listen to those who pretended to have discovered the means of relieving them, is not very surprising; but does this lessen the guilt of those who, instead of endeavouring to calm and instruct these unfortunate beings, sent amongst them pretended missionaries still farther to irritate and inflame their discontents,—to promise them, in place of their present misery, every abundance of future comfort and enjoyment,—to instigate them, in fact, to purposes which, without such intervention, they would never have thought of?—The right hon. Gentleman says that Oliver could have no interest in increasing the discontents of the people.

What! can it be supposed that a man acting as a hired Spy, was not aware, that the magnitude of his services would be estimated by the nature and the extent of the evil to which they were applied,—that the reward to which he aspired, would be commensurate with the dangers from which he might seem to have rescued the State? Had such a man no interest in exciting treason where he found none,—in encouraging the crimes he was sent to detect?

"But the right hon. Gentleman has said, that Oliver did not create the disaffection,—that he found it ready organized on his arrival,—that the persons with whom he mixed, must have been previously disaffected, or he could not have made any impression upon them. When the right hon. Gentleman asserts this, is he aware of the ground on which he stands? When he defends the conduct of Ministers on the plea, that the victims of Oliver's perfidy were predeterminately disaffected, is he aware that he takes the same ground which was taken by those infamous miscreants, who for the sake of 'blood-money' seduced miserable men into the perpetration of crimes? I do not now allude to the abominable villainy of Brock and Pelham and Power, who endeavoured to sacrifice men who were perfectly innocent. That is a case so horrible in its nature, that the history of the Country can scarcely produce its parallel. It is to the justification set up by Vaughan and his accomplices

that I am referring, in illustration of my argument. What was the justification of Vaughan? Forsooth, that the men excited by him to the commission of burglary were not persons whom he had seduced from the paths of religion and virtue, but, were reputed thieves,—that his only offence was in laying the trap in which those intentional burglars were caught.—Their characters, he said, were so bad, that they required only an opportunity to act, in order to be guilty of theft and burglary. The defence set up for instigating men to rebellion is, that they were not unwilling to commit state offences. Between these two cases I cannot perceive the slightest distinction. When coming from the lips of Vaughan, this defence brought down the execration of the whole Country; and yet Ministers think that the same plea urged for theinselves, is entitled to the favour and approbation of Parliament!

"Impelled, Sir, by a sense of the sacred and solemn duty which, as a representative of the People, I feel myself called upon to discharge, I have delivered my opinions, at some length, on the several objects of this Bill; and I hope that the great importance of the subject will be received as an apology for having detained you so long in that chair. I now beg leave to conjure the House to consider the awful responsibility which it is about to incur. If ever there was a moment when party feelings and private interests ought to yield

to the general good, it is the present. The House is now sitting to decide one of the most important questions that ever came before it; it is sitting in judgment on the Constitution of England. Let me implore the House to pause before it consents to sanction a measure, which strikes at the root of all law, morality, and justice,—which encourages the exercise of arbitrary power, and tends to destroy every principle of virtue in the hearts of the People. It is impossible not to foresee the evils that must result from adopting this Bill. It forms a part of an odious system which will be acted upon in future times, when the prayers of the People, and the voice of patriotism, will be raised in vain.

"In the course of the last year, the Habeas Corpus has been suspended twice. There was no rebellion at home,—the Country was not threatened with invasion from abroad,—and yet, for the space of twelve months the People have been deprived of this great bulwark of their liberties. A Bill of Indemnity is now proposed, not for acts done under the suspension, but for acts not warranted by it. It is claimed, however, as the necessary consequence of the suspension. If this Bill should be passed, suspensions and indemnities will be more frequently called for. In times of profound peace, on any slight appearance of discontent, the Habeas Corpus will be suspended; the Magistrates will be stimulated to exercise

powers beyond the law; Spies will be employed to call unlawful Meetings, and to excite the distressed and deluded to acts of riot and insurrection; and when all this has been done,—when the Constitution has been thus violated, a Bill of Indemnity will be introduced, and will be justified, supported, and carried, on the very precedent which we now propose to establish. Great as the evils are which belong to this measure, when considered by itself, they sink into insignificance, when compared with those which must attend its operation as an example to future Ministers and future Parliaments. Henceforward a Bill of Indemnity will be regarded as the natural and necessary consequence of a suspended Habeas Corpus. One abuse will be the plea in justification of every other. Whatever abuses of authority may occur, however Magistrates may violate their duty,—to whatever extent the Law may be outraged,—however malicious and unfounded the charges on which the subject shall have been deprived of his liberty,—all these considerations are to be utterly disregarded, because the Habeas Corpus has been suspended!

"This is to be the law of England in times to come. This proceeding, with the long detail of multiplied sufferings enumerated in the various Petitions which lie unheeded or ridiculed on the table of this House, will stand recorded in our history,—exhibiting a character of the present,

and a precedent to every future age.—In this disastrous state of things, my only consolation is, that when these cruel and arbitrary measures against the People of England shall be tried hereafter,—when bad precedents shall have led to worse,—when the last traces of liberty shall have vanished,—when the tribunals of law and justice, and all the venerable institutions of our fathers shall have been swept away, or converted into the instruments of despotism and oppression,—when posterity shall drain the dregs of that baleful cup which is preparing for them, and shall reflect with merited bitterness on the source and authors of their wrongs,—my only consolation is, that posterity will also know, that among the Members of this House, there were at least a few individuals who saw and endeavoured to avert the threatened evil,—who, regardless of the overwhelming numbers, and the taunts and the exultation with which a confiding majority advanced to their triumph over the Constitution, remained at their posts, struggling, vainly struggling to preserve that system of law, justice, and liberty, which has been so long the boast of this Country and the envy of surrounding nations.—It has been the good fortune of the Ministers of the Crown to be engaged in a succession of splendid victories abroad; but they have sullied the lustre of those glories and of their own characters, by a victory over the

liberties of their Country; and it may now truly be said, in the language of our immortal Bard,

> "That England, that was wont to conquer others,
> Has made a shameful conquest of herself."

After a long debate, the House divided, when the numbers were:

Ayes - - - - - - - - - - - -	238
Noes - - - - - - - - - - - -	65
Majority in favour of the Motion -	173

THE LAW OF TITHES.

March 16th, 1818.

Mr. Curwen moved the second reading of his Bill for the amendment of the law in respect of Tithes *.

* The Bill went to enact, 1st, that in all suits of equity in which any prescription, custom, manner of Tithing, composition real, or exemption, shall come in question, the Court is authorized and required to grant an issue on the prayer either of the Plaintiff or the Defendant;—2dly, that where, in such suits, the defence arises on a composition real, it shall be sufficient for the Defendant to plead generally that such a composition was duly made before the 13th of Eliz. and to set forth what that composition was, proving it by usage, as in case of moduses, without being

Sir William Scott, after canvassing all its different clauses, and contending that its provisions would seriously affect the interests of the Clergy, moved, that the Bill should be read a second time that day six months.

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obliged to produce the instrument of composition, or to prove its execution;—3dly, that where discharges or exemptions from Tithes are claimed under dissolved monasteries and religious houses, they may be proved by usage;—4thly, that grants and conveyances of, and discharges from, Tithes, shall be presumed against lay impropriators, from length of enjoyment;—5thly, that conveyances, exchanges, compositions, and agreements made between the 13th of Eliz. and the year 1766, for effecting inclosures, drainages, &c. whereby lands or pecuniary payments have been allotted in lieu of Tithes, shall be valid, unless proved to have been fraudulently obtained;—6thly, that when such conveyances, exchanges, compositions, and agreements are set aside, pecuniary compensations shall cease, and the lands given in exchange shall be restored to their right owners, upon petition; and if the owners cannot be discovered, shall be then vested in the overseers of the parish in which they are situated, for the benefit of the poor;—7thly, that moduses and other compositions shall not be avoided for want of precisely ascertaining the lands covered thereby, but that commissions shall be issued by the Court to ascertain the same, or to set out other lands sufficient to secure the same; and that remedy by distress and sale shall be allowed to all persons entitled to pecuniary payments by way of modus or composition, in the same manner as in cases of rent reserved upon demises or leases of land;—8thly, that where moduses, compositions, or exemptions are informally pleaded, the Court shall direct the issues in the proper forms; and that parties praying frivolous and vexatious issues shall, on the certificate of the Judge before whom they are tried, be liable to treble costs.

Sir Samuel Romilly observed, that the course which the right hon. Gentleman had taken, was not quite according to Parliamentary usage. Instead of discussing the principle of the Bill, as was usual upon the second reading, he had examined each particular clause, as if the Bill were in a Committee. As a justification for this the right hon. Gentleman was pleased to say that the Bill proceeded upon no general principle, or if any principle was to be found in it, it had been confined to the first clause, which was now abandoned. This, however, was a most unfair representation. The principle of the Bill was to place Tithes on the same foundation as to evidence and presumptions, with all other property; and this principle would not be in any degree affected by the rejection of the first clause. To that clause he had always been unfavourable. He saw no reason why every landholder who chose to set up a modus, should at all events, whether there might, or might not, be a tittle of evidence to support it, have a right to have it sent, as a matter of course, to be tried by a Jury. If the present state of the law, as to the directing of issues, was to undergo any change, he would rather take away from a Rector that right, which he could hardly say by law, but certainly by the present practice of the Courts he was in possession of,—that of having every modus, however clearly established in proof,

sent to be tried by a Jury, merely because it was his pleasure to require it.

To the rest of the Bill Sir Samuel Romilly said, that he was, for the most part, friendly, though there were some clauses on which he entertained doubts, and others which he thought capable of being improved in the Committee. Nothing could be more unjust than to represent the Bill as an invasion of property, or as calculated to promote litigation. Its effect would be to secure the one and to prevent the other. It would secure property on the safest and most widely admitted of all principles,—the length of possession.—He considered Tithes whether in the hands of the Clergy or the Laity, as sacred as any other species of property. The abolition of Tithes in favour of the Landholder, instead of being an act of justice, would be quite the contrary. It would be giving the whole of the land to a person who, by himself, or his ancestors, had only purchased nine tenths. But though Tithes ought to have the same protection in the hands of their owner as any other inheritance, they ought not to have that extraordinary and superstitious protection, which they in many cases enjoyed, and which was productive of the greatest hardships and injustice. Why should Tithes stand on a different foundation from all other property? Why should a title to them in a layman, instead of acquiring strength, from long possession, be rendered precarious and in-

valid by the lapse of centuries and the consequent loss of muniments?—With other property, an undisturbed possession of sixty years gave a title against all the world, even against the Crown. But where the Church is concerned, a possession of ten times that length is not sufficient to afford the proprietor any security. If a modus is set up as a defence against any demand of Tithes, and if it can be shown, that it had its origin at any time since the days of Richard I.* (that is, within the last six hundred years), the modus is void.

With respect to real compositions, the disabling statute of the 13th of Elizabeth, which restrained them, had only a prospective operation. The Legislature did not venture to do an act of such flagrant injustice as to annul contracts, which had been made by persons who were at the time by

* Blackstone, in speaking of the time of legal memory, says, "The rule was adopted, when by the stat. of West. 1st (3 Ed. I. c. 39), the reign of Richard I. was made the time of limitation in a writ of right. But since by the stat. 32 Hen. VIII. c. 2, this period, in a writ of right, hath been very rationally reduced to 60 years, it seems unaccountable, that the date of legal prescription or memory, should still continue to be reckoned from an æra so very antiquated."—*Com. B. II. p.* 31, &c. There are several statutes for limiting the King's title to a certain time. The chief of these are 21 Jac. I. c. 2, and the 9 Geo. III. c. 16: the first limiting the King to 60 years precedent to the 19th of February 1623,—the last limiting him to 60 years before the commencement of the suit or proceeding for the recovery of the estate claimed.

law fully competent to make them. But the injustice at which the Legislature scrupled, had been done by the courts of justice, which by refusing to receive any evidence of a real composition, but the instrument itself, had given to the statute a retrospective operation.—As to the improvidence with which these compositions had been made, that was a good reason for passing a law to prevent them for the future; but none for setting aside those already made, and doing that which was not done with regard to any other species of property.

The right hon. Gentleman had been pleased to say, that there was no great hardship in compelling the landed proprietor to produce documentary evidence, as it was always to be found in the registries of the Bishops. With great submission, he believed the right hon. Gentleman was mistaken. In the course of a long practice he had never seen more than four or five of these registered deeds; and the very statement, therefore, which was made by the right hon. Gentleman, that before the statute, real compositions had become very frequent, contrasted with the very few instances in which they had since been established in courts of justice, proved, in the strongest manner, to how great an extent the decisions complained of had operated retrospectively.

With respect to those lands which were formerly parts of the possessions of dissolved monas-

teries, and which in the hands of those monasteries were exempt from the payment of Tithes, it was only proposed by the Bill to dispense with the necessity of proving by the production of deeds, that the lands were so held, and to leave the same room for presumption, from a long-enjoyed exemption, as applied to other property. To require the production of deeds in all such cases, was to require that which must often be impossible. The law, as now acted on, often operated to divest individuals of the inheritance which had descended to them through a long series of generations, because their ancestors had not preserved and transmitted to them those documents which, in the accidents of private life, in the confusion of civil wars and public tumults, must necessarily have been lost or destroyed.

To so much of the Bill as related to lay-impropriators, no plausible objection could be raised; and though, since the great case of the Corporation of Bury, it had been held by the Courts of Justice, that nothing should be presumed against a lay, any more than against an ecclesiastical, rector, yet the grounds of that decision it was extremely difficult to discover, or why the alienation of this species of property by those who had a full right to alienate it, should be proved in a different way from that of all other possessions. All indeed that the right hon. Gentleman could say upon this part of the Bill was, that it was an innovation,

and therefore dangerous, and that if the law was so altered with respect to the Laity, the example might be followed hereafter, so as to affect the Clergy. The pretended innovation, however, was only to abolish an extraordinary anomaly in our law, and to make this part of it consistent with the rest of our judicial system; and there could be but little danger that the example would be followed unless it were recommended by its beneficial effects. The truth was, that the present law of Tithes was injurious to the Laity, to the Clergy, and, what was still more important, to the true interests of morality and religion. — The clause relating to farm moduses in the Bill before them was especially required; for, if a modus was ever so well established, and the limits of the farm over which it extended could not be clearly traced, the whole modus was avoided.

There might be many objections to the Bill as it then stood; but to dispose of such a Bill on the second reading was in effect to say, that the House would not consider it. He agreed that the property of the Church ought to be respected, but the best way to make it so, was to prevent it from being rendered an instrument of injustice. The House divided, when the numbers were:

For the Second Reading - - - -	15
Against it - - - - - - - -	44
Majority against the Bill - - -	29

STEALING IN SHOPS, WAREHOUSES, &c.

April 14*th*, 1818.

Sir Samuel Romilly moved the third reading of his Bill to repeal so much of the 10th & 11th of William III. as took away the benefit of Clergy from persons convicted of privately stealing goods to the amount of five shillings in shops, warehouses, coach-houses, or stables.

The Attorney General objected, not to the Bill, but to its preamble. Instead of the words which stated that extreme severity was calculated to afford impunity to crime, and which made the change in the value of money a reason for altering the Law, he proposed to substitute simply an expression of the expediency of repealing the Law as at present constituted.

Sir Samuel Romilly thought the objections not worthy of much consideration, but that the approbation, which some Members on the other side had expressed, might render it proper to offer some reply. He could not accede to the amendment, because it would expunge the very principle which made the Bill both necessary and proper. His hon. and learned Friend had spoken of the preamble as containing abstract propositions. What

he had objected to as abstract propositions were only the result of observations founded on long experience. There was an indolence of legislation in modern times, which suffered Acts to be passed founded on no distinct principle at all. It had not been so formerly, and he was anxious to follow the example of better times, and to conform to a more reasonable standard, by stating in his preamble the precise character of the Bill.

The principle now objected to was the very foundation of the Bill. "Extreme severity"—he begged the House would attend to the expression, "extreme severity, by rendering conviction more difficult, afforded impunity to crimes."—This was a truth of universal notoriety. It was well known, that the fear of the punishment of death following conviction, had often prevented prosecutions for privately stealing, and had thus afforded entire impunity to the crime. He would not trouble the House with a repetition of the numerous instances which had been so frequently detailed to it in exemplification of this obvious fact. He would only refer to cases which had subsequently occurred in our Courts of Justice.—At the last Assizes for the county of Southampton, a servant was convicted of robbing his master's house. On account of the disproportionate severity of the punishment, applications were made to the Secretary of State for a mitigation of the sentence. But all those applications were unsuccessful, and

the criminal was executed. In the newspapers the reason assigned for the failure of these applications was, that the Judges had come to a resolution, that all servants convicted of stealing from their masters should suffer death. Whether the Judges had come to such a resolution he knew not, nor did he pretend to censure them if they had; but if it was their resolution, it ought to be declared by a legislative enactment, and not to rest on a private agreement; for then servants would clearly see their situation, and be perhaps deterred from the crime.

But his object was to point out the effect of such proceedings on the minds of Juries. At the last Old Bailey sessions, within a few weeks only after this statement appeared in the papers, a person of the name of Milwood was tried for having stolen property to the amount of several hundred pounds from his master. The evidence was conclusive, and the Jury found him guilty,—but only of stealing to the value of thirty-nine shillings. Could any man doubt that the Jury, in this case, returned such a verdict in consequence of the statement in the newspapers, of the resolution of the Judges to enforce the extreme penalty of the law upon all servants convicted of stealing to the amount of forty shillings? He did not wish to censure the Jury, although he could not adopt the language of Judge Blackstone, who called such verdicts, "pious perjuries." The Jury were

driven to the dreadful alternative of acting in opposition to the awful oath they had taken, or of handing over a fellow-being to the last punishment, for a crime which had not been regularly connected with such punishment. With those facts in their faces, could they pretend to say that the principle was not both manifest in itself, and an imperative reason for altering the law?

As to the second ground of objection, could any one pretend that five shillings was now the same sum in value as in the reign of King William? Was it not now equal to twenty shillings, or, at least, to ten? If so, the punishment of death for now stealing to the amount of five shillings, was necessarily more severe than the Act contemplated, since it was applied to a sum not one half the value of the sum to which the Act had limited it. This was undeniably the standard assumed in the Act. The standard being changed by the depreciation of money, a change in the Act was necessary. His hon. and learned Friend had said, that if the House acted on this principle now, it would pledge itself to similar conduct on all similar occasions.—He had never heard it urged as a reason why the House should agree to any measure, that it had sanctioned the principle on which it was founded in the preamble of another measure. But if the House was so pledged, what would be the injury? If there was any other Act on this principle; if in any other case

extreme severity arose from the same changes, why not make a similar alteration, and why should not the House be pledged to it? On these grounds he would press the preamble as it now stood.

Sir Samuel Romilly was ably seconded by Mr. Wilberforce; after which the proposed amendment of the Attorney General was negatived without a division. The Bill was then passed *.

SLAVES IN DOMINICA, &c.

April 22d, 1818.

Sir Samuel Romilly. "I rise to submit to the consideration of the House a Motion, of which I gave notice a few evenings since, relating to the treatment and condition of Slaves in the Island of Dominica. My object in making it is to bring before the House in an authentic form, all the information which has come to my knowledge on a subject so interesting to the feelings of humanity;—to show not only the state of the law with regard to Slaves in some parts of the West Indies, but what is there perhaps of more importance,

* The Bill was, however, lost on the second reading, in the House of Lords.

the mode in which that law is administered. We have often heard of the efforts which have been made in the colonies to meliorate the condition of the Slave population; but of what avail are laws, if they are never carried into effect?—It is certainly probable, that in the course of the statements which I have to lay before the House, occasional inaccuracies may be pointed out. These, from the very nature of the transactions, no less than from the distant scene of their occurrence, it may be impossible altogether to avoid. But I must protest against the imputation of wilfully exaggerating or misrepresenting the facts which I have heard. I have spared no pains to make myself acquainted with the whole truth, and believe that the statement which I shall make, will be found at least to be substantially correct. Should I err in any particular, that error will consist not in exaggerating, but in rather understating the evils of the case.

"There are already many papers before the House connected with this subject. In the last Session of Parliament I obtained copies of the presentments made by the Grand Jury of the Island of Dominica, in February 1817, and of the Bills of Indictment therein referred to. These papers are most important, but they do not embrace the whole question. My present object, therefore, is to procure such documents as shall supply the deficiency; for which purpose I shall move for co-

pies or extracts of all papers in possession of the Secretary of State for the Colonial Department relative to the indictments of certain individuals for cruelty to Slaves, in the Islands of Dominica and Nevis; leaving it, of course, to the proper officer to withhold such documents, or parts of documents, as by their production, might be detrimental to the public service.

"Having premised thus much, I shall proceed to a simple detail of the facts, which have induced me to submit this proposition to the House. —In the spring of 1817, several cases came before the Grand Jury of Dominica, in which it appeared that great cruelty had been exercised by certain masters on the persons of their Slaves. The first of them was a case in which John Baptiste Louis Birmingham, Doctor of Medicine, was charged with having violently, cruelly, and immoderately scourged and flogged certain Slaves, the property of the said John Baptiste Louis Birmingham. These Slaves had been tried for misdemeanors, of which, had they been convicted, the legal punishment would have been thirty-nine lashes. They were, however, acquitted; and yet their master, in spite of this verdict, had them taken into the public market-place, and there punished with the same rigour as if they had been found guilty of the offences imputed to them. Struck with this flagrant violation of law, His Majesty's Attorney General preferred an Indict-

ment against the master, which the Grand Jury threw out.

"Another case was that in which John M'Corry, Esq. was charged with having cruelly and immoderately scourged and flogged his Slave, Jemmy, who was accused of drunkenness, fighting, and absence from the plantation, without a written pass. This Bill also was thrown out.—A third case was that of Alexander le Guay of the same island, planter, against whom an indictment was preferred for his brutal treatment of a female Slave, named Jeanton. He was charged 'with having assaulted the said Jeanton, and with having confined her in an iron chain, by affixing and fastening the same with padlocks in and upon the neck, arms, and legs of the said Jeanton;'—and further, 'with having maimed, mutilated, and cruelly tortured the said Jeanton by fracturing her arm.' This Bill the Grand Jury likewise threw out;—and not satisfied with this denial of justice, they travelled so far out of their province as to present these several indictments as nothing more nor less than nuisances! Their words, as appears by the return made to the House, were these: 'The Grand Jury have farther to present the dangerous consequences which are likely to occur from the number of indictments for unmerited punishments inflicted on Negroes by their owners, managers, or employers, which have been laid before them this day, unsupported by any evi-

dence whatsoever; on the contrary, it appeared from the evidence, that in some of the cases, the Negroes merited the punishment they received.'—This presentment is dated Dominica, Grand Jury Room, 4th February, 1817; and is signed by John Gordon, foreman. If the statement which it contains about the absence of all evidence in support of these indictments be correct, it is no less surprising that such Bills should have been preferred by the Attorney General, than that they should have been sanctioned by ten, out of the twenty-two who composed the Grand Jury, voting in their favour.

"In consequence of these proceedings, the Attorney General (W. W. Glanville), convinced, that he could not satisfy the ends of justice by the ordinary mode of indictment, and that it was in vain to appeal to Grand Juries for the protection of the black population, felt it to be his duty, in the prosecution of subsequent outrages of the same nature, to proceed by information. What must be the state of that country where such a proceeding in such cases is the only means of executing the law? Where the protection, which the interposition of a Grand Jury affords to the subject, has become a hardship of the severest kind;—where, from the perverted feelings of its society, *that*, which in this country is viewed as an invidious exertion of power, namely, the information of the Attorney General, is the only resource to the aggrieved? — The Grand Jury

made a second presentment to the same effect as that which I have already described, though it is not recorded.

"I am sure the House cannot but be sensible of the evils to which the unhappy Slaves must be exposed under such circumstances. If the Crown Officers are deterred from interfering in their behalf when oppressed, to whom are they to look for assistance in obtaining redress? Friends they have none, who are not in a state of degradation and helplessness similar to their own. Their masters are the persons against whom they invoke the laws. From what quarter, therefore, but from Government, can they hope for aid?—I am sorry to disturb the disposition, which seems to exist in a part of this House, to speak favourably of West India legislation; but of what use are laws, however benevolent in their principle, if they are never carried into execution?—There is a general concurrence of opinion in the West India Islands as to the impropriety of all interference between master and Slave, from the supposed tendency of such interference to excite in the latter, a disposition to revolt. The result of this doctrine is to give to the master an uncontrolled power over his Slaves.

"In Dominica there is a species of punishment called 'the Public Chain,' to which a master may send his Slaves for any period he chooses. Men, boys, and even girls of the most tender age

have been subjected to this mode of torture. The Governor, willing to alleviate the sufferings of these wretched creatures, consulted the Attorney General, who gave an opinion that he had no right to remit the punishment awarded by the master. Indeed it is generally held there, that though the Royal mercy may be extended to Slaves guilty of crimes against the state, it cannot be extended to those who have rendered themselves obnoxious to the more rigorous tribunals of their arbitrary masters.—Perhaps the House may be ignorant of the exact nature of this punishment. From a work which I hold in my hand, it appears, that the wretched culprits are condemned to the hardest labours. Numbers of them, frequently as many as an hundred, are attached to the same chain, just at a sufficient distance from one another to be able to walk and work; and in this state, without regard to sex, age, or strength, they are driven together into the plantations with cattle-whips and other instruments of castigation. —And yet the right of the Crown to extend mercy to these wretched creatures is denied! In this country, the King can mitigate all punishments except those which are founded on an impeachment by the Commons;—but in Dominica this prerogative is limited by the power of the masters! —Are these not evils to which a remedy should be applied without delay? If it can be effected by colonial legislation, let it be so. It would be

at all events most desirable. For my own part, however, I am disposed to think that no effectual remedy will be found except through the interposition of the British Legislature, and by their appointing in each island some individual wholly unconnected with the Colony,—having no local tie or interest in it,—to watch over the execution of the laws. For this purpose no plan promises to be more effectual than that recommended by Mr. Burke to Mr. Dundas, which is, to constitute the Attorney General in each island the guardian of the Slaves,—making their protection an essential part of his duty.

"With respect to the legislation of this country for her Colonies, I know that the very idea of such interference has excited discontent. Yet in how many instances has it taken place! I need only refer to the Act by which colonial property has been made liable as assets for debt.—Still we are told, that it is contrary to the spirit of the British Constitution to legislate in any case for the Colonies, because the Colonies are not represented in Parliament. Can these objectors be serious in their arguments? Can they really imagine, that British freedom is to preclude all interference to mitigate or correct colonial tyranny and injustice?—What is this but a mockery of the Constitution? What is it but to say that slavery, under the auspices of liberty, is to be more dreadful than under the most arbitrary government?—An arbitrary government,

according to these Gentlemen, may of itself pass laws for the protection of Slaves; but the British Legislature is precluded from doing so unless the masters of those wretched creatures are themselves parties to the measure. The oppressed are not to be relieved without the full assent and approbation of the oppressor!—This, we are told, is according to the genuine spirit of the British Constitution. But is it for the Colonists to talk of the British Constitution? Let them have it, if such be their wish; but let them have it in every part—let them have it as a whole.—Let them have it with its equal freedom and equal rights—with its principles of law and justice, extending their protection to the meanest, no less than to the highest, and proclaiming to every human being that the moment he sets his foot on British ground, he is free.—Are these the principles which the Colonists desire to establish in the West India Islands?

"I shall now call the attention of the House for a few moments to another subject,—to the obstacles which have been raised in Dominica to the manumission of Slaves. A Slave born on the island cannot obtain his liberty without paying a tax of 16*l.* 10*s.*; others not born there are obliged to pay 35*l.* A man of colour, though a freeman of another island, becomes, by the law of Dominica, a Slave on his arrival there, unless he produces a certificate of his freedom, and pays a cer-

tain tax. This is one of the enactments of those who talk of the British Constitution. A Slave, once landed on the British coast, becomes a Freeman; but a Freeman of colour, the instant he touches the soil of Dominica, becomes a Slave!—By another law all men of colour found on the island are liable to be taken up as runaways, and if not claimed (which they cannot be, if they have no masters), are then sold for the benefit of the public! Thus are Freemen frequently exposed to the same evils as Slaves, being presumed as such from the mere circumstance of colour. These laws cannot be too severely reprobated. They are founded on principles of injustice and oppression,—on principles diametrically opposite to those of the British Constitution.

"Since the Abolition Act has passed, every obstacle thrown in the way of manumission, ought to be removed. For, though it may be impossible to emancipate at once all the Slaves of our West Indian colonies, there is no man, in whose breast humanity is not altogether extinct, but cherishes a hope, that the day, however distant, will at length arrive, when slavery shall no longer exist in any part of the world. That desired event, however, must be produced by the operation of gradual means,—by affording facilities to manumission, —by communicating religious and moral instruction,—by encouraging the marriages, and improving the condition of the Slaves. The whole spirit

of the laws to which I have alluded is completely hostile to the progress of this event. Their tendency is to render the wretched objects of them with their offspring from generation to generation, perpetual Slaves. . . . .

"With respect to those laws of an opposite description, which look so well upon paper, and which seem calculated for the benefit of the Slave population, they have not only been left unexecuted, but were never, I believe, intended to be executed. What was the evidence of General Prevost, when Governor of Dominica, on this subject? In his despatch of the 1st of January 1805, addressed to Lord Camden, and written in answer to the inquiries of Government into the state and condition of the Slaves in that Island, he says, 'The Act for encouraging the better government of Slaves, which passed the General Assembly of this Island, appears to have been considered, from the day it was enacted down to the present hour, as a political measure to avert the interference of the mother-country in the management of the Slaves!' —Is it not, however, the imperative duty of the mother-country under such circumstances to interfere? These wretched beings, though the Slaves of their masters, are still subjects of the King. They owe him allegiance, and are liable to be punished as severely as any other men, nay more so, for the violation of that allegiance. From the

King, therefore, they have a right to claim protection.

"Of the necessity of some legislative interference I think that I have already adduced sufficient proof. But I will mention another case which has also recently occurred, not indeed in Dominica, but in Nevis. Though it is by no means my wish to estimate the British, or any other character by cases of particular cruelty, yet I fear that the present case, no less than those into which I have already entered, is but too illustrative of the general feeling which prevails in the West Indies on this subject. Indeed it is one of the necessary though melancholy results of modern slavery.—The present case is that of a Mr. Huggins, the same individual whose cruelty was once before the subject of Parliamentary reprobation *. This Huggins, notwithstanding his conduct, is still a person of considerable opulence and weight in the Island of Nevis. He was formerly tried for cruelty to Slaves of his own; he has lately been brought to trial for cruelty to the Slaves of another.

* Huggins had been tried for having, in the market-place of Nevis, in the open day, and in the presence of several Magistrates, flogged nineteen of his Slaves with the most brutal severity, giving to some 212 and 242 lashes, and to one woman 291; employing, in one instance, the brother of the victim as the minister of his ferocious anger. Huggins was acquitted, though the proofs against him were flagrant, and though far from denying, he even attempted to justify his enormities.

A Mr. Cottle had appointed him his attorney on leaving the island. Huggins went to the plantation, and finding two young lads who were accused of receiving a pair of stolen stockings, he ordered them, on his own authority, and without the interference of any magistrate, to be severely flogged. They were stated to be very young, and not to have suffered any punishment before. Huggins ordered them to have 100 lashes each, though the utmost legal punishment, had they been convicted of the offence, would only have been 39 lashes.

"There were present at the infliction of this punishment two female slaves. One was a sister,—the other was a near relation, of one of the boys, and had been always treated with the greatest kindness by Mr. Cottle. The poor girls, unable to restrain their feelings, shed tears, and for this heinous offence,—for conduct which would have appeared meritorious in any other part of the civilized world, Huggins ordered them to receive, the one 20, and the other 25 lashes, which were inflicted on them with a cart-whip. For this outrage Huggins was prosecuted by the Attorney General; but although the facts were clearly established, though the defendant did not even venture to dispute them, he was acquitted; and this interposition of the prosecutor in behalf of the oppressed was held up to the reprobation of the whole Colony!—Such is the prejudice which exists

with regard to any interference between the Master and his Slave!"—

After a few further observations Sir Samuel Romilly read to the House the opinion of the Attorney General to which he had referred in the course of his speech. The substance of the opinion was, that the Governor could not pardon a Slave who had been condemned to labour by his master for any offence. To be assured of this it was only necessary to examine the definition of slavery, from which it would appear that a Slave could have no civil rights, being the exclusive property of his master, and equally transferable with any other possessions.—Sir Samuel Romilly concluded with moving for "Copies or extracts of all despatches, letters, and papers, in the office of His Majesty's principal Secretary of State for the Colonial Department, which in any manner relate to the cases of John Baptiste Louis Birmingham, Alexander Le Guay, and John M'Corry, against whom bills of indictment were preferred by His Majesty's Attorney General for the island of Dominica, and to the presentment made by the Grand Jury of the same island, on the 4th day of February 1817, and to any presentment made by the Grand Jury of Dominica at any subsequent period, which in any manner relate to the power of the owners of Slaves in the same island to send their Slaves to be kept to hard labour in the public chain, and to the right which the Governor may

have, by virtue of the royal prerogative, to remit the punishment of Slaves so condemned by their masters, to be kept to hard labour."—Also, "Copies of extracts from all despatches, letters, and papers, in the office of His Majesty's principal Secretary of State for the Colonial Department, which in any manner relate to the case of Edward Huggins, the elder, tried in the island of Nevis, in May last, for cruelty to certain Slaves under his charge."

After a debate, in which Mr. Goulburn, Mr. A. Grant, Mr. Wilberforce, &c. bore a part, the Motion was agreed to.

ALIEN BILL.

May 5th, 1818.

Lord Castlereagh moved for leave to bring in a Bill to continue the Alien Act. The measure was strongly opposed by Lord Althorp, Mr. Lambton, and Sir Samuel Romilly, the last of whom expressed his opinions to the following effect: "Sir, I cannot suffer the question to be put without entering my protest, even in this early stage, against the proposed Act. It is so degrading to the Bri-

tish character, so contrary to the principles of the Constitution, so inconsistent with the policy of our ancestors, and with the present interests and feelings of the people, that nothing less than some very strong case of necessity can warrant even the proposal of it. The noble Lord has not attempted to show any such case; but has confined himself to the same grounds on which he formerly proposed the measure in 1816. Weak as those grounds appeared to me at that time, they appear still weaker now. There is no longer even a pretence for such a measure; and as I opposed it in 1816, *à fortiori* I must oppose it now. It proceeds on a principle which though never openly avowed, is now indirectly admitted, namely, that the Government of England is henceforward to minister to the despots of Europe. This is to be our new policy. Instead of affording, as in former times, an asylum to the oppressed and persecuted of all nations, this once hospitable island is to be turned into a continental depôt from whence foreign tyrants may drag forth their unhappy victims at pleasure!

"It is not yet twenty-four hours since we heard it stated in this House, that although the burdens of the people were great, yet they could afford to purchase a literary collection for the support of their national character. The purchase was proper, but its importance to the national character sinks into insignificance, when compared with the pre-

sent question,—when compared with the glory which has accrued to this country from being recognised in every quarter of the world, as the great sanctuary from religious and political persecution,—as the hallowed soil where the outraged victims of tyranny,—where the oppressed of every climate and every creed, have, in all ages, sought and found a never-failing refuge!—For my own part, I should be the most ungrateful of men,—I should be unworthy of every blessing which I enjoy, if, forgetting the protection afforded by English kindness and generosity to my ancestors, I did not struggle to extend the boon to other exiles, whether persecuted for religion or politics.

"The noble Lord has referred to 1802 as a period of peace in which this measure was adopted. But every one knows that in 1802 the peace was a sort of armistice, during which those passions which had embroiled Europe, were for a moment quieted only to spring up into more acrimonious hostility. But even then it was only brought forward for one year, and that, by the Secretary of State for the Home Department. Indeed it is natural to think that with him such a measure should originate. He is the official guardian of internal tranquillity; the police of the country is under his peculiar care. But in 1816 the Bill was proposed not by him, but by the representative of foreign potentates in this House! It was then for the first time introduced by the Secretary of State

for Foreign Affairs, and for the preservation and peace of other countries!—The noble Lord has talked of it as a mitigated measure. In what respect is it mitigated? It is not limited to those who may hereafter come, or who have lately arrived in this country, but extends equally to those who have been long established in it. By the returns now before the House there appear to be not less than 20,000 persons who are in a manner naturalized,—who have adopted this country from choice,—and who, from long residence and long habits, have almost become Englishmen. These persons are all at the mercy of Ministers; they may be banished without inquiry; they may be the victims of unjust slander or unfounded suspicions, without even an opportunity being allowed them to refute or to combat either!

"One great injustice of which this Act is guilty, and which is directly at variance with the spirit of English law, is, that it goes to establish every one a foreigner unless he is able to prove himself a natural-born subject. It requires proofs which in some cases it may be difficult even for Englishmen to produce. But there is one point which I am particularly desirous to press upon the attention of the Members for Scotland, if there are any of them now in the House. This Bill is in direct violation of that great charter of their rights, the Act of Wrongous Imprisonment. It has never, in any part of Great Britain, been made

matter of legislation, that the King should send Aliens out of the country. There is only the opinion of Judge Blackstone for such a doctrine. But no one ever imagined that the King had the power to send them into any other country. In the treaty of Amiens it was stipulated that persons charged with murder, forgery, or fraudulent bankruptcy should be mutually delivered up by one country to the other. Yet the Crown, before it could perform its stipulation, found itself obliged to apply to Parliament. So also in our treaty with America, there was a similar stipulation, and a similar application on the part of the Crown, to Parliament.

"But the Act of Wrongous Imprisonment distinctly provides that no one shall be sent out of Scotland except with his own consent, and the Court of Session has decided that this enactment extends to Aliens. The question was fully tried in the year 1778 in the well-known case of Wedderburn and Knight. Knight was a native of Africa, and had been purchased five or six years before by Wedderburn, who brought him to Scotland, and afterwards wished to take him back to Jamaica. Both points—his condition as slave or free, and his obligation to return with the man who had regularly bought him,—were decided by the Court of Session. He was not only declared to have been free from the moment he came into Britain, but it was also found that he could not be again sent out

of the country. It is true, that Parliament can repeal this Act, as it has repealed the Act of Habeas Corpus; but at least the Members for Scotland ought to be aware of the circumstance. It has not been previously noticed, though it certainly deserves attention.

"I shall now sit down, repeating once more, that with the opinions which I entertain of this measure,—considering it as utterly unnecessary,—as derogatory to the character of the nation, and as subservient to the evil designs of other countries,—I should but ill perform my duty, if I did not resist it, in this and every other stage, to the utmost of my power."

The House divided:

Ayes - - - - - -	55
Noes - - - - - -	18
Majority - - - -	37

ALIEN BILL.

May 19th, 1818.

Lord Castlereagh having moved the Order of the Day for going into a Committee on the Alien Bill, Sir Samuel Romilly rose, and after a few prelimi-

nary observations, in which he animadverted on the silence of Ministers, who appeared to rely on numbers, rather than on arguments, in support of the proposed measure, proceeded to the following effect. "There are two classes of persons to be affected by this Bill. One class consists of foreigners who may hereafter seek an asylum in this country; the other, of foreigners who have already settled among us and become a part of ourselves. As far as it relates to the former, its execution must depend upon foreign powers. It is on their suggestions alone that the executive government of this country can act in preventing individuals from coming here. Whether they are flying from France or the Netherlands or any other place, it is only by listening to the representations of foreign Ministers that our Government can guard itself against them. This, indeed, the advocates of the measure do not affect to deny. So that every victim of religious and political persecution,—every unhappy man who is endeavouring to shelter himself here from the dangers of his own country,—from the terrors of the Holy Inquisition, the tyranny of the King of Sardinia, or the despotism of any of the other Governments which we have established on the ruins of the free and independent States of Europe, is to be driven back from our shores,—is to be deprived of an asylum on the bare suggestion of a foreign minister,—on statements perhaps made to our Go-

vernment by the very persecutors and enemies of the unfortunate exile.

"An hon. Member (Mr. C. Grant) has said that this measure is not levelled against foreigners in general, but only against those turbulent spirits who are still seeking to disturb the peace of Europe,—against the idolaters of the Goddess of Reason, and the worshippers of Napoleon Buonaparte. According to the arguments of the hon. Gentleman; the present Bill, instead of continuing in force for only two years, is likely to last as long as the lives of those whom he has addressed. It is to survive the principles of the French Revolution, and the whole race of Buonaparte; it is to remain on the Statute-book, until after the extinction of all persons, who shall be supposed to entertain a friendly disposition towards either.

"Another right hon. Gentleman (Mr. Bathurst) has said that good men have nothing to fear from the existence of this power in the hands of Ministers, and that its only effect will be to deter bad men from approaching the country. But how are Ministers to learn the real state of the case? How are they to distinguish between the evil and the good? Acting as they do upon secret information,—hearing only one side of the question, how are they to know whether the charge against the individual has really originated in truth, or whether it is the mere suggestion of political enmity and private malice? — In Spain,

when a person is brought before the Inquisition, he is asked,—without knowing any thing of the specific charges against him,—whether there is nothing which he has said against the orthodox principles of the Catholic religion, and he is left to ponder in his mind what he could have said.—So in this country, after the present Bill shall have passed, the unfortunate individual will be asked, if he has said nothing against the doctrines of legitimate governments,—if he has insinuated nothing against the family on the throne?—Does any one really suppose that the unfortunate foreigner, who may seek an asylum in this country, can be safe under the exercise of such powers? Can any one believe, that if the ministers of Charles II. and James II. had been invested with similar authority, those monarchs would have had their eyes offended by the crowd of Protestants who fled to this country for protection? No; if the same powers had existed in those times, the persecuted Protestants would not have ventured to seek an asylum in England. But they came hither, because they relied on what they knew to be the constitution of this country;—because they relied on the character, the hospitality, the public law of this country. It was not to Charles or James,—it was not to the mean pensioners of their tyrant, that these Refugees turned their eyes in the hour of need. No; it was on the laws and the constitution of this country that they relied for an

asylum,—for a protection as well against the King of England as against the King of France!—How is our character now changed! How is our glory fallen, when, from being the enemies of tyrants, the shelterers of the oppressed, we present ourselves to the world as the ready agents and willing slaves of despotic power!

"An hon. Gentleman has spoken of the hospitality of this country towards foreigners during the last twenty-five years, as more conspicuously evinced than at any other period of our history. Neither the times of Queen Elizabeth, nor those of any of her successors, he declares, can vie with the period in which we have had an Alien Bill. An opinion more destitute of all foundation, I will boldly affirm, has been never expressed. It is utterly absurd to say that more protection has been shown to persecuted individuals in the last twenty-five years, than during the reigns of James I. and Charles I. Charles II. and James II.—The hospitality of latter times has been party, not national hospitality. It has been extended by the Government to the French and other royalists; but for the sufferers in support of freedom,—for those who had incurred the odium of being friends to the popular cause, even before it degenerated into its unhappy excesses,—*they* have been driven across the Atlantic to seek an asylum.

"A right hon. Gentleman (Mr. Bathurst) has

said that the paper alluded to in the case of Mr. Befort was found among his baggage, just as he was about to be sent out of the country. Now it may not be difficult to explain how it came there."

Mr. BATHURST. "I beg leave to explain. I believe the fact was, that the Custom-house Officers thought it their duty to examine the articles which the individual in question wished to take with him; and in doing so, they discovered that paper*."

Sir SAMUEL ROMILLY. "I thank the right hon. Gentleman for this explanation. It seems then, that the paper was not sought for, but was merely discovered in searching the baggage, and

* M. Befort had been for several years settled in London, where he kept a shop and possessed considerable personal property. He was sent out of the country in August 1813, after having had both his person and his luggage most strictly searched. Nothing suspicious was found, and it was not until the moment of his leaving, or (according to the statement of Mr. Lyttelton) until after he had left the country, that a correspondence between the Pope and the Irish Catholics and the Father of the Order of La Trappe, was discovered in a portfolio which had been previously examined. Whether M. Befort was privy to these papers, or whether they were forgeries placed amongst his luggage by a person who had been with him, and who contrived to appropriate to himself several hundred pounds found in the portfolio, it is impossible to determine. Certainly the subsequent conduct of M. Befort did not betray any consciousness of guilt. Though liable to severe punishment, if convicted of the imputed offence, he returned to England in 1814, to arrange his affairs, which he was only prevented from doing, by being again sent out of the country.

certainly it would not be fit to say much against the delicacy of Custom-house Officers.—In the case of Las Casas the papers were never examined. In that of De Berenger they were made use of to convict him of a misdemeanor, but they were most illegally made use of.

"As far as this measure relates to foreigners who may seek to reside here, it is calculated merely to carry into execution the tyrannical intentions of foreign powers.—As for those who have long domiciled here,—as for that large description of persons who have been engaged in active and honest pursuits, of what crime have they been convicted, that they are thus to be put out of the pale and protection of law? Are any of them to be driven from this country because Ministers may be told, on secret information, that they are Buonapartists in their heart,—that they wish to overthrow the dynasty of the Bourbons? On this subject I cannot do better than to beg the House to recall to its recollection the sound principles laid down in the speech of an hon. Gentleman (Mr. F. Douglas) on a former night; a speech indeed which remains unanswered—a speech which the noble Lord opposite has deemed unworthy of a reply,—but a speech which I consider to be one of the most able and effective that has ever been heard within the walls of this House.

"What is the answer which has been given to these arguments? The only answer which I have heard, is, that this power will not be abused,—that

it is to be reposed in safe hands,—that confidence ought to be placed in the character of the noble Lord, whose official duty it is to superintend its exercise!—Is this an answer to satisfy the Country? —To satisfy any rational man?—I am against tyranny in any hands. Ministers may or may not have abused this power. I will suppose that they have not; for it would have been prejudicial to their own interests to do so. Though aiming systematically at arbitrary power,—though proceeding step by step to the subversion of every constitutional bulwark, they still would not be such idiots as to excite the alarms of the Country by a premature abuse of their authority.

"As to the character of the noble Secretary of State for the Home Department, on whom so many compliments have been lavished, I must repeat what I have often said before, that I see in it nothing that can induce me to invest him with unnecessary power. I am ready to acknowledge his integrity and worth as a private individual; but the noble Lord now stands before us as a public man, and in that character I can allow him no approbation. I have never seen in him any regard for liberty: I have never witnessed in him any veneration or respect for the excellent principles of our recorded Constitution. When I consider the part he has borne in the Suspension of the Habeas Corpus Act; when I reflect on his refusal to hear the petitions of the unhappy persons who have been imprisoned under that suspension; when I

recollect his uncalled-for interference with the duties of the English magistracy, urging them to hold to bail before indictment, all persons accused of libel,—when I recall these and numberless other acts of the noble Lord in his character of Secretary of State, I declare, that there is not a man in the Country in whose hands I should be more unwilling to intrust the exercise of discretionary power.—The noble Lord has not abused the powers which have been before committed to him under the Alien Act; so his advocates affirm, and so I am desirous to believe. Still, how are we to know the fact? The House has been kept in darkness upon the subject; every proposition for inquiry into particular cases has been uniformly resisted and refused by Ministers. And yet there are men who can vote to reinvest them with these high powers, without any necessity being shown,—without a single argument advanced, to justify the demand!—This is a most fatal blow to the character of the Country. The result of such conduct will be, that when *our* freedom is lost, we shall not have the compassion of any nation in the world. A people so regardless of the liberties of others, it will be said, did not deserve to enjoy their own."

The House divided:

Ayes - - - - - - - - - -	99
Noes - - - - - - - - - -	32
Majority in favour of the Motion -	67

IMPRISONMENT FOR LIBEL.

May 21st, 1818.

Mr. Bennet moved for a Committee to inquire into the petitions of Jonathan Mellor, Samuel Pilling, and Robert Swindells *. After a few observations from Mr. Davenport and Mr. Blackburne, the House was about to divide, when the Attorney General rose and opposed the Motion at some length.

Sir Samuel Romilly said, that his hon. and learned Friend had not touched upon the most important points of the question. Notwithstanding the disregard with which subjects of this kind had been treated during the Session, he could not have thought it possible that His Majesty's Ministers would have sent the present Motion to a division without some explanation, and yet that appeared to be the course on which they had almost decided. *(No, No, from the Treasury Bench.)* He was sure that strangers had been ordered to withdraw, and that the gallery was almost cleared before his hon. and learned Friend had risen.

Sir Samuel Romilly did not deny that, as far as his hon. and learned Friend was concerned, these men had been treated with lenity. He did not, however, very well see why the proceedings

* See pages 349 and 352 of this volume.

had been removed by *certiorari*; such cases ought to be brought to trial without delay. But this was not the part of the subject which he thought of most importance. It was the fettering of men charged with the publication of a libel. Had any person stated a few years ago that such a transaction would take place at this day, no one would have believed him. The thing would have appeared too monstrous to be credited. Why were these men confined in irons? They had not committed felony; and, even if they had, they had not been legally convicted. He agreed that the libel with which they were charged, was extremely reprehensible; but he denied that it was blasphemous; it could not be called so, either in the common or the legal acceptation of the word.

His hon. and learned Friend had admitted, that the magistrates had, in some degree, exceeded their authority.—Was this all that he said of such a proceeding? Was this the manner in which he spoke of such a novelty as putting men in fetters on the mere charge of Libel? Recollecting the liberal opinions which his hon. and learned Friend, in the early part of his life, had so ardently entertained, he was astonished that such a violation of law had not made a deeper impression on his mind,—that it had not excited his sympathy, and roused his indignation.—Acting, as he did, in a magisterial capacity, as well for the People as the Crown, it was extraordinary that these things

had not affected him in a stronger manner. In the Courts below, the Attorney General might consider it his peculiar duty to defend the prerogatives of the Crown against every attack upon them; but, in that House, he was sitting as one of the representatives of the People—as a guardian of their rights—a conservator of their liberties. Would his hon. and learned Friend, in the early part of his life, have endured that irons should be placed on men charged with the publication of what Country Magistrates might deem Libels? Was it not notorious that many persons construed every publication, offensive to the feelings of men in power, a Libel? Was not the very respectful Petition of the Bishops in the reign of James II. considered a Libel? Let, then, the House of Commons remember, that they were that night deciding whether their constituents were to be placed in irons, at the discretion of Magistrates, previously to their trial, for offences, which, even if they were convicted, would not subject them to such extraordinary rigour.—

Mr. Blackburn here observed, that the letter which he had received from the Magistrates stated, that these persons had been kept in the workhouse, by a fireside, and were merely chained by the leg to prevent them from running away.

Sir Samuel Romilly said, he was sure the hon. Member would not deny that they had been confined in the House of Correction with the usual

precautions; and Mr. Blackburn admitted this to be the case.—

Sir Samuel Romilly replied, that this was what he meant. The usual precautions, however, were nothing more nor less than irons. As to any comforts which the hon. Member might think these men had enjoyed, what comforts would compensate for a species of torture so degrading and cruel to persons in their situation? Surely there were circumstances in this case, if any regard for the liberty of the subject existed in that House, sufficient to demand investigation. The houses of the petitioners had been searched for papers, and papers, called Libels, had been seized and taken away. Rollin's Ancient History, Law's Serious Call, and the Evangelical Magazine, had been seized, because they were in company with the Liverpool Mercury and some of Cobbett's Registers. Such proceedings were most reprehensible. Lord Camden had severely reproved such practices; he had declared, that the sacredness of a person's private papers should never be violated on the presumption of their being libellous. Would any man venture to write as Sydney and Locke had done, if his papers were exposed to the search and seizure of every country Magistrate and illiterate Constable? Yet such were the fruits of Lord Sidmouth's Circular Letter—that most unconstitutional interposition with the duties of the Magistracy.—

"Can the House" (said Sir Samuel Romilly

in conclusion) "refuse to inquire into these facts? In all other cases the inclination is to presume with the oppressed against the oppressor; but on political questions, I regret to say, that however severe the injustice,—however harsh the agent, be he Minister, Magistrate, or Constable,—the general feeling of this House is to decide against the complaints of the People."

The House divided:

Ayes - - - - - - - - - - -	17
Noes - - - - - - - - - - -	73
Majority against the Inquiry -	56

ALIEN BILL.

June 5th, 1818.

Sir J. Mackintosh presented a Petition from George Oppenheimer and others against a clause introduced by the House of Lords into the Alien Bill. The Petition set forth, that the petitioners had been proprietors of stock in the Bank of Scotland, since the 28th day of April last, having purchased such stock upon information given to them, that by the Act of the Scotch Parliament in 1695, establishing the Bank of Scotland, they should thereby acquire the rights and privileges

of British subjects;—that they had been long resident in this country, carrying on business as merchants, and that most of them had children born in this country;—that they were willing to conform to all regulations prescribed in the case of foreigners who become naturalized by Act of Parliament; and having purchased stock in the Bank of Scotland upon full and entire faith in the law, as it stood when they became proprietors of such stock, and having a confident belief that no person in this country was ever deprived of his rights by a retrospective law, they prayed, that the Bill then before Parliament might not extend to disfranchise them of their just rights legally acquired since the 28th day of April last.

Mr. Tierney moved, "That the said Petition be referred to a Committee, to examine and report the matter thereof to the House."

Lord Castlereagh said, he should oppose the Motion. The facts of the case were known, and, therefore, it was unnecessary to enter into any investigation. The petitioners had taken a short cut—they had obtained their rights by a fraud on the law. Would the Legislature suffer itself to be defeated in its object by an obsolete Act of the Scotch Parliament, by which all purchasers of stock took themselves out of the class of Aliens, and, of course, freed themselves from the operation of this Bill? The retrospective nature of the clause had been complained of.

But this was a quality by no means uncommon in Acts of Parliament. The Bill for regulating the residence of the Clergy had a retrospective effect; and there were various other precedents of the same nature.—As to the Scotch Act, he was not prepared to say what the Government might eventually recommend respecting it: its final fate was not at issue: what the House had to determine was, whether or not it should be suspended during the continuance of the Alien Bill.

Sir SAMUEL ROMILLY. "Sir, I rise to support the Motion of my right hon. Friend for referring this Petition to a Committee; and if the House has the least regard for principle,—if it is not determined to act in violation of all law and justice, I cannot conceive it possible for any effectual opposition to be made to the proposed inquiry. Since I have had the honour of a seat in this House, I have never seen a Petition of greater importance, considering the nature of it in itself, and the extraordinary doctrines with which it has been met by the noble Secretary of State. The noble Lord has said, that there is no occasion to refer the Petition to a Committee, because the House already knows all the facts of the case. The House does not know the facts of the case. The noble Lord himself does not know the facts of the case.—The noble Lord has asserted, that if an Alien buys and holds stock of the Bank of Scotland for twenty-four hours, he becomes en-

titled to all the privileges of a natural-born subject. How does the noble Lord know that? Has he the Act?—If he is in possession of it, let him produce it; though he is quite mistaken, if he thinks the repeal of only one Act necessary. It will be necessary to repeal no less than five Acts of Parliament. The individuals in question are not entitled to their claims merely by the Scotch Act. They are no less entitled to them by Acts of the English Parliament.

"The exact terms of the Scotch Act which was passed in 1695, it is not in my power to state, from the impossibility (such has been the haste of the advocates of the present measure) to procure it. Its object, however, was to create the Bank of Scotland with a capital of £100,000. In 1774, it being thought proper to increase the capital; an Act was passed by the British Parliament—the Act of the 14th Geo. III. c. 32—increasing it to £200,000; and, in the 17th section of this Act, it is declared, that the Act of the Scotch Parliament in 1695, shall remain in full force as to every particular, except as far as the same might be altered by the Act then passed; and that the provisions of the Act of 1695 shall operate with regard to the new stock, as it had operated with regard to the old;—in other words, that all purchasers of the new, no less than of the old stock of the Bank of Scotland, shall become naturalized subjects.

"In the 32d Geo. III. another Act was passed, farther increasing the capital of the Bank of Scotland; and in the 34th Geo. III. another; both declaring, that the Act of 1695 shall remain in full force in the particulars which I have mentioned. This has been done altogether five several times; and yet, in the teeth of these repeated Acts of Parliament, the noble Lord asserts, that the individuals in question have obtained their rights by fraud of an Act of Parliament! A monstrous assertion!—Does the noble Lord—a Minister of the Crown, high in the confidence of the Prince Regent—mean to assert, that it is not perfectly justifiable in these persons to purchase the stock in question, in order to become naturalized? Why, it was the very advantage held out in order to induce Aliens to become proprietors of that stock. When the Bank of Scotland was established, which was a year before the establishment by charter of the Bank of England, it was a boon offered to Aliens to tempt them to become proprietors. This boon the individuals in question have accepted, and now the noble Lord calls that acceptance a fraud on the Act of Parliament! To take it away would be a fraud on the part of Parliament. Parliament has offered certain conditions to Aliens; and when, relying on the faith of Parliament, they accept them, Parliament withdraws its part of the consideration, and puts the Alien purchaser in the situation of being compelled to

sell the stock which he has purchased for a particular purpose, at the reduced price to which it must necessarily be lowered.

"The noble Lord has appealed to precedents and to past times. Does the House recollect what was done in the reign of Queen Anne? In the 7th of Anne, an Act was passed, naturalizing all Protestants on their landing in this country. [*Hear! from Lord Castlereagh.*] I know the meaning of the noble Lord's cheer. The Act of the 7th of Anne was thought inconvenient, and was therefore repealed in the 10th year of the same reign. But how was it repealed? Did the statesmen of that day dare to take away the privileges which had been previously conferred by it? No. The repealing Act was wholly prospective in its operation. Far from prejudicing or impeaching by its enactments the naturalization of those who had taken the benefit of the former Bill, it even allowed three months for others, who might be on their way to this country, to come in and to entitle themselves to the same privileges. But what is the character of the present measure?—A thing so extravagant, so contrary to all law, so completely in violation of all justice, was never thought of before the time of the noble Lord and his colleagues. And what is worse, this wrong has emanated from that branch of the Legislature which is the supreme Court of Justice in the

Country; it has proceeded from men who fill the highest judicial offices—who have sworn to administer justice with impartiality!

"Those persons have indeed taken 'a short cut,' as the noble Lord calls it. They did not venture to introduce the proposition into a Bill, where it would be repeatedly canvassed and discussed. No—they have taken care that there shall be only one question upon it, by making it an addition to a Bill already discussed.—Much stress is frequently laid on the forms of Parliament. Here all forms have been violated. The House of Commons sent to the House of Lords a Bill continuing an existing law; the House of Lords returns it with the repeal of an existing law. And this they call an addition to the Bill! By this proceeding they tell the House of Commons, 'Either the Bill to which you have agreed, shall not pass into a law at all, or it shall be accompanied by an amendment which we have added to it, and which is wholly alien to its original object.' And this is done on the presumption, that the hurry at the close of a Session will prevent the House of Commons from having any alternative. A monstrous proceeding!

"There is another view of the case which is most important. I do not profess to be very learned in the law of Parliament; but unless I utterly mistake that law, the House of Com-

mons cannot, consistently with its privileges, agree to this amendment. For observe, what is its effect? To subject a large description of persons to the alien duties. This is one part of its injustice. Another is, the forfeiture of estates. Suppose that among the forty-nine persons who are said to have availed themselves of the Scotch Act, there are some who have done so for the purpose of purchasing estates. Is the House aware, that the effect of this clause will be to make those persons forfeit the estates so purchased? If aware of it, will the House be so regardless of every principle of law and justice as to consent to the proposition?

"But to revert to the law of Parliament.—I have been looking into authorities to see how that law stands with respect to the circumstance which I have mentioned; and I find, that the House of Commons has rejected amendments made by the House of Lords, in cases much more remotely connected with the privileges of the Commons than this clause by which alien duties are imposed. The last precedent in Mr. Hatsell's work, was in 1791, when the House of Commons threw out a Bill returned to them by the House of Lords, for regulating the distribution of rewards in cases of felony; because the House of Lords had diminished one of the rewards. The House of Commons rejected this as an interference with their privileges. But how inferior an interference

was it to the present, in which the House of Lords proposes to tax individuals!—In 1787, the House of Lords made an amendment to a Bill sent up to them from the House of Commons respecting Horsham Gaol; which amendment was to the effect, that Horsham Gaol should be repaired in the same manner as other gaols were,—that was, by a county rate. But even this clause, indirect as it was, was sufficient to procure the rejection of the Bill by the House of Commons.—To originate money Bills is one of the most important privileges of the House of Commons, and one which ought to be vigilantly guarded; and I do conceive that the present is a case in which that privilege ought to be strongly asserted.—The Act respecting the stock of the Bank of Scotland, is only one of many Acts in which Parliament has held out to Aliens the advantage of becoming naturalized. Service by Aliens in the Fleet and Army, residence of Aliens in the Colonies for various periods, and other acts, entitle foreigners, in many instances, to all the privileges of natural-born subjects.

"The noble Lord, in justification of the retrospective character of the clause, has referred to the Act by which actions against the Clergy for non-residence were suspended. I do not conceive that Act to have been altogether justifiable, although there were circumstances which lessened the objections to it; but, at any rate, it ought to

be remembered, that it was not passed without hearing the individual who was to be affected by it. I am sure that it little occurred to many hon. Members, who agreed to that Act, that it would be adduced as a precedent in a case like the present. Thus it is, that, availing themselves of precedent after precedent, the noble Lord and his colleagues proceed, step by step, to invade and destroy the liberties of the Country. On the present occasion, however, if the noble Lord is determined to follow such a precedent, let him follow it in every part. Let the House at least hear the individuals against whom this retrospective law is directed. Let it not deprive them of rights (which they have acquired in the due course of law, and to which they are as much entitled as any man here is to the rights which he enjoys), without at all knowing whether they are deserving of such punishment or not. As no offence has been imputed to them, we must naturally presume that they are innocent. Under such circumstances how can we visit them with the penalties of guilt? How can we refuse even to hear, or to appoint a Committee to examine and report upon the facts of their case?

"Sir, I do not know what course the House is about to adopt; although, from the eagerness with which the question has been taken up on the other side, I cannot help suspecting what that course will be,—a course utterly unwarrantable as

it regards the individuals more immediately concerned, and wholly repugnant to the spirit of all Parliamentary proceeding. Deeply involved as our privileges are in the question, yet as this Parliament will, in all probability, be dissolved in a very short period, I fear its last act will be an act of signal injustice. Such, however, will be a fit close of the greater part of our proceedings. Apprehending that we are within a few hours of the termination of our political existence, before the moment of dissolution arrives, let us reflect on the deeds for which we have to account.—Let us recollect, that we are the Parliament which, for the first time in the history of this Country, twice suspended the Habeas Corpus Act in a period of profound peace. Let us recollect, that we are the confiding Parliament which intrusted His Majesty's Ministers with the authority emanating from that Suspension, in expectation that, when it was no longer wanted, they would call Parliament together to surrender it into their hands—which those Ministers did not do, although they subsequently acknowledged, that the necessity of retaining that power had long ceased to exist. Let us recollect, that we are the same Parliament which consented to indemnify His Majesty's Ministers for those abuses and violations of the law of which they had been guilty, in the exercise of the authority thus vested in them;—that we are the same Parliament, which refused to inquire into the grievances stated

in the numerous Petitions under which our table groaned,—that we turned a deaf ear to the complaints of the oppressed—that we even amused ourselves with their sufferings!—Let us recollect that we are the same Parliament which sanctioned the employment of Spies and Informers by the British Government, debasing that Government, once so celebrated for good faith and honour, into a condition lower in character than that of the ancient French police.—Let us recollect that we are the same Parliament which sanctioned the issuing of a Circular Letter to the Magistracy of the Country, by a Secretary of State, urging them to commit and hold to bail for libel before indictment found, and promulgating the opinions of the King's Attorney and Solicitor General, as the law of the land.—Let us recollect, that we are the same Parliament which sanctioned the shutting of the ports of this once hospitable nation against unfortunate foreigners flying from persecution in their own country.—

"This, Sir, is what we have done; and we are about to crown the whole by the present most violent and unjustifiable act. Who our successors may be, I know not; but God grant that this Country may never see another Parliament as regardless of the liberties and rights of the people, and of the principles of general justice, as this Parliament has been."

Mr. Tierney's Motion was supported by Mr. W.

Smith and Sir A. Piggott, and opposed by the Attorney General and the Chancellor of the Exchequer. The Speaker, however, having intimated his opinion, that the amendment proposed by the Lords did interfere with the peculiar privileges of the House of Commons, Lord Castlereagh consented to abandon it; and Mr. Tierney consequently withdrew his Motion *.

* The proposed amendment was afterwards embodied by Ministers into a separate Bill, which passed in all its stages, through the House of Commons, on the 8th of June, and through the House of Lords on the following day.

[*The following Speeches of Sir Samuel Romilly, though not delivered in the House of Commons, are still too intimately connected with his principles and conduct as a Legislator and Politician to be omitted in this work.*]

BANKRUPT LAWS.

THE following is the examination of Sir Samuel Romilly, contained in a Report of the Select Committee appointed to consider of the Bankrupt Laws, which was presented to the House of Commons on the 16th of March 1818.—

"The Bankrupt Laws" (said Sir Samuel Romilly) "appear to me to be in many respects extremely defective, and to require much alteration.—The penal part of them, as being first in importance, requires first to be considered. If a Bankrupt do not surrender to his commission, he is, under the statute of 5 Geo. II. punishable with death. If he surrender, but omit to make a full disclosure of his property, and withhold part of it to the amount of 20*l.* from his creditors, he is also, by the same statute, punishable with death. This excessive severity (as always happens where severity is excessive) defeats its object. The cruelty of the law prevents its execution; and though these offences are extremely common, nothing is more uncommon than the punishment of them. Since the statute was enacted, which is now more than eighty-five years, few years have passed in which various instances of these offences have not occurred; and yet there have not, I believe, been more than three examples of the law having been

executed. * These very examples, too, have had upon the whole, rather a tendency to multiply crimes; they have had more effect in preventing prosecutions, than occasions for prosecution, and have in a great degree made the law, for want of prosecutors, a dead letter.

"In other cases of inordinately severe punishments, private individuals are often induced to prosecute by relying on the mercy of the Government; and by a confidence, founded on experience, that the administration of justice will be much less cruel than the law; but in the case of Bankrupts, it is well known that no mercy is to be expected. It is supposed to be for the interest of the community that this most severe statute should be rigorously enforced. In the few instances that have occurred of convictions upon this law, the sentence has always, I believe, been executed, with one single exception. This excepted case was that of a man of the name of Bullock. The circumstances under which his life was spared, were, that after his conviction, it was made perfectly evident, in a petition on his bankruptcy which came before the present Lord Chancellor, that the commission against him was of no validity. The facts which put this beyond all doubt had not been proved upon the trial. By the evidence given on that occasion, the conviction was well warranted; but, according to the real circumstances of the case, the Bankrupt ught never to have been convicted. And yet

even this exercise of mercy, indispensable as it seems to have been, gave to some persons great dissatisfaction; and though the man was pardoned, it was only on condition of his being transported, and (if I mistake not) for life. He was, I believe, a dishonest man; but the commission against him not being valid, he had done no act which by law was punishable, either with death, or with transportation; and I mention this case only to show with what rigour crimes against the Bankrupt Laws have been treated by the executive government.

"With such rigour, indeed, is Government disposed to treat them, that upon some very important occasions it has ranked them with murder and forgery. Thus, in the treaty of Amiens, it is stipulated that certain offenders who fly from justice, shall be reciprocally given up to their respective governments; a stipulation, by the bye, which it was felt that the Crown had not the power to make without the sanction of Parliament; and a statute was therefore passed to confirm and give effect to the treaty, the 42 Geo. III. cap. 92, sec. 21. The offenders to whom an asylum was thus formally, and by a solemn national act refused, were only of three descriptions,—murderers, persons guilty of forgery, and fraudulent bankrupts.

"The nation, however, has been so far from adopting this severe disposition of its government, that it scarcely ever happens that per-

sons can be found who will institute prosecutions for felonies under the Bankrupt laws. Very numerous instances might, I believe, according to information which I have received from various quarters, be laid before the Committee, of creditors who have deliberately resolved to allow Bankrupts by whom they had been grossly defrauded, to enjoy complete impunity, because they saw no other alternative than such impunity, or the certainty of shedding their blood.

"That men should feel great repugnance to put a human creature to death for such an offence, cannot surprise those who have reflected what the nature of the crime really is. Whatever the language of the law may be, or whatever national expediency may be thought to require, the great mass of mankind never can be brought to regard as highly criminal that which is not to a great degree immoral; and when it is considered, that by our law, a Bankrupt is made such against his will, it is evident that the only immorality of one who has secreted none of his property, but who does not surrender to his commission, is, that he withholds from his creditors the information and assistance which he ought to afford them, to enable them to recover his effects, and to apply them in satisfaction of their demands; and even this immorality may find some extenuation in the disgrace to which he must be subjected, and in the danger to which he is exposed; since, however honestly he may have acted, and though every thing he has in the world

be given up to his creditors, yet if he do not obtain his certificate, he may be imprisoned for life, by any one creditor who will prefer the gratification of his resentment to the benefit he might derive from the commission. A man that has not fortitude enough to encounter so much shame, and such a risk, may be culpable; but who can, upon calm reflection, say that he ought to be punished with death?

"The crime of withholding property from the creditors is indeed much more immoral; but even this, in the case of one who has been made a Bankrupt without his own concurrence, amounts in reality to nothing more than the not paying (to the extent of the property withheld) debts which it is in his power to pay. That this is criminal cannot be denied; but that it should be expiated by the blood of the offender confounds all notions of justice, and destroys all gradations of guilt. It is very dishonest, but it is not more dishonest in an obscure tradesman, than in the heir of a title; and yet for this dishonesty, while our law hangs the one it suffers the other to enjoy complete impunity; nay, it not only leaves him unpunished, but it suffers him, in defiance of his creditors, to enjoy, and to squander in gaol the substance which ought to be applied to the payment of his debts; for there is no process by which, in the case of persons not subject to the Bankrupt Laws, copyhold estates, property in the public funds, or

money lent upon security, can be taken by creditors in execution.

"The statute of 5 Geo. II. which first made the offences of not surrendering under a commission, and of withholding property by Bankrupts, capital, was originally a mere temporary law; it was passed only as an experiment; and though a most unsuccessful one, it has been continued from time to time till the year 1797, when it was made perpetual. The cruelty of this statute has, I am fully convinced, wholly prevented its efficacy; and I entertain no doubt that if it were repealed, and the offences for which it denounces death were declared to be misdemeanors, and were merely punished with imprisonment, the number of such crimes would soon be very sensibly diminished.

"There is, however, an offence often committed under the Bankrupt Laws which appears to me far more serious than that of not surrendering to a commission, or that of concealing property from the creditors, but for which the law has appointed a much slighter punishment; I mean that of a trader procuring a commission to be taken out against him, in order, by means of false and fictitious debts proved under it, to obtain a certificate, which shall operate as a release of all his real debts. This is an offence which has of late years become extremely common, and in the perpetration of which there is

great reason to believe that the same persons have been repeatedly employed as instruments under different commissions. The crimes which the law has made capital are merely crimes of omission, and consist in not submitting to very harsh coercive proceedings: but this crime is the spontaneous and premeditated act of the debtor; it is a gross fraud, practised generally on a great number of individuals, and to a very great amount, and which can be perpetrated only by means of repeated, numerous, and flagrant perjuries. The only prosecution which can now be instituted against these, the greatest offenders in Bankruptcy, is for a conspiracy, or for subornation of perjury; and the only punishment that can be inflicted on them, if tried for the first of these crimes, is fine and imprisonment; and if for the last of them, the pillory, in addition to those other penalties. A severer punishment ought surely to be appointed for this crime, such as transportation, or imprisonment and hard labour in a house of correction; for, even in this case the punishment of death would, as it appears to me, be neither expedient nor justifiable.

"Another part of the law relating to Bankrupts, which is highly penal in its consequences, and which very urgently requires alteration, is that which gives power to the commissioners to commit a Bankrupt to prison, if he do not answer to their satisfaction the questions they put

to him, respecting his property, and to keep him in custody till he does. It was formerly held, that if the Bankrupt gave plain and direct answers to the questions, even though the commissioners believed them to be false, they had no power to commit; and the only remedy was a prosecution for perjury: but it is now understood, that if the commissioners discredit the answers given them, they may imprison the Bankrupt till he shall answer to their satisfaction. Such a power ought not, under any system of laws, to be intrusted to any description of persons, who, however wise and discreet, yet being men, must be subject to error. The answers given by the Bankrupt may be true, though they do not appear such to the commissioners. Truth has not always the semblance of truth; and no man can have had much experience of judicial proceedings without having sometimes seen that facts, which at the first statement of them appeared in the highest degree improbable, have nevertheless in the end been fully and satisfactorily established. If ever this should have occurred in Bankruptcy, and the first impression have been acted on,—if ever a Bankrupt should be committed, because the commissioners refuse credit to his assertion, although that assertion be strictly true (and no person can doubt that this may sometimes happen), an innocent man must be punished with perpetual imprisonment, only because his judges are difficult of

belief. It is perseverance in truth, which in such a case must make the imprisonment perpetual; the only chance of deliverance is to fabricate some falsehood; and to maintain it with such confidence and consistency that it shall gain credit with those by whom the truth was disbelieved.

"Next in importance to those parts of the Bankrupt Law which I have already observed upon, is that which relates to Certificates. Upon this subject it should seem, from much of what appears in the evidence reported by the Committee in the last Session, that very erroneous notions are entertained: it may therefore be expedient a little to enlarge upon it.

"The principle upon which the Bankrupt Law, as established in the 5th year of the reign of Geo. II. proceeds, is, that every Bankrupt, whether he has become such by misfortunes, by imprudence, or even by culpable conduct, shall, if he give up all the property that he possesses to his creditors, and conform himself to the provisions of the statute, by making a full disclosure of every thing material for their information, be protected from every process to which his creditors might otherwise resort against his person or against property acquired by him subsequently to his bankruptcy; accordingly, what is requisite to entitle him to this protection, is a certificate, not that his failure was the effect of misfortune,

or that his former conduct was blameless, but merely, that, after the commission issued, he had done every thing which the law required of him, to give full effect to it. This being the object and nature of the certificate, it seems not a little extraordinary, that amongst the persons whose consent is necessary to its allowance, should be a certain proportion of the creditors, and that it should be left to their uncontrolled discretion to give or to refuse such consent. If they were to be considered merely as witnesses, who having a full knowledge of what had been done under the commission, and an interest narrowly to watch the proceedings, were best qualified to testify what the Bankrupt's conduct under it had been, one could well understand why their signatures should be required. But then equal justice would seem to demand, that the Bankrupt should have a right to insist on their making some declaration on the subject; and that if they could not conscientiously certify that he had not conformed to the statutes, their silence should be considered as a tacit admission that he had done every thing which the law required of him.

"It is not however in this light (whatever may have been the intention of the Legislature), that the matter is now considered, either by the creditors, or by any persons concerned in the administration of this part of the law. The Lord Chancellor and the Commissioners, whose assent

is necessary to the allowance of the certificate, as well as that of the Creditors, are bound to lay entirely out of their consideration the anterior conduct of the Bankrupt. If he has appeared to his commission, has given up all his property, and upon his examination has made a candid and ingenuous disclosure of his affairs, they are bound to allow his certificate, though that very disclosure should amount to an admission, that before his bankruptcy he had deceived all who dealt with him, and had practised on his creditors every species of fraud and imposition. The creditors, however, are bound by no such rules. They are at liberty to advert to the whole of the past life of the Bankrupt, and as it were to sit in judgment upon the transactions which have taken place with themselves; to be judges in their own cause, and to inflict punishment at their pleasure for whatever they may consider as an offence against themselves or against the public.—This has, I confess, always appeared to me to be an extremely defective system. I have always thought that keeping a Bankrupt without his certificate was an unfit punishment for past offences, and that creditors were not the judges who could be best intrusted with the power of punishing their debtors. The effect of withholding a Bankrupt's certificate, is to leave him exposed to all the severe process which the law of

England affords to creditors against those who will not pay their debts; while the same law, by stripping the Bankrupt of the whole of his property, makes it impossible that he should pay them. It takes from him, too, all motives for industry, by subjecting the future fruits of his labours to the demands of his former creditors. One single creditor who refuses to come in under the commission, may throw the Bankrupt into prison, and detain him there for life, except as far as under the present temporary insolvent debtors' Act he may, as long as it shall continue in force, obtain at the end of five years of imprisonment the relief of a kind of second bankruptcy.—

"Before the passing of the Act of 49 Geo. III. the injustice was still greater: for it was permitted to a creditor who did not choose to take the benefit of a commission, to come in and prove his debt under it, for the mere purpose of being counted in the number of those whose signature to the certificate was required;—and of rendering, by *his* refusal to sign it, the other signatures unavailing. How that practice ever came to be permitted it is difficult to understand, for there is nothing in the statute of Geo. II. which could sanction it, though it appears to have prevailed, if not from the passing of that Act, yet at least from the time of Lord Hardwicke. This gross injustice is prevented by the late Act; and

no creditor is now permitted to proceed by law against the Bankrupt, and at the same time to take advantage, for any purpose, of the commission.

"The evils which may befall a Bankrupt who cannot obtain his certificate, though they are very severe, and in some cases extremely cruel, are yet not of such a kind as ought to be inflicted by way of punishment. If a trader has committed frauds before his bankruptcy, he should suffer the penalty which the law has appointed for them; or if they be such as no law has yet provided against, an Act should be passed to declare them criminal, and to fix the proper punishment for them. The lot of evil which he is to suffer for his misdeeds should be pronounced in a judicial sentence; the crime should be defined, the punishment should be certain, and public, that his sufferings might operate by way of example and of prevention, and might be made useful to the community. His miseries ought not, as they now are, to be dependent upon the accident of some one creditor choosing to proceed against his person, while others refuse to sign his certificate; they ought to be inflicted speedily, and not deferred perhaps for years, till all his misconduct has been forgotten, and his misfortunes only are remembered; they ought not to be prolonged throughout his life; and to be endured in silence and in secrecy, and without any declaration of the nature and the circum-

stances of his offence. A man who is undergoing the penalty of his crimes ought not to be placed in the doubtful state in which an uncertificated Bankrupt is placed, leaving it uncertain, to all who hear of his condition, whether his sufferings are the effect of his own guilt or of the capricious cruelty of some unrelenting creditor.

"If, however, the law relating to certificates were not, as a penal law, liable to all these objections, yet upon what principle can it be justified, that the administration of this law, in which the public has so deep an interest, should be confided to creditors, not responsible to any one for their conduct, but left at full liberty to act as their passions or their interests may prompt? No man, much experienced in Bankrupt Law, who recollects to what persons certificates have been granted, and to whom they have been refused, will pretend that the discretion thus intrusted to creditors has been generally exercised upon motives which would bear the test of any moral investigation. I have heard it, indeed, asserted, that creditors abound with kindness and humanity, and never refuse certificates, but to those who are undeserving of them. I cannot say that my experience confirms that observation; on the contrary, I have known several instances of the most harsh and inhuman refusals of certificates by creditors. One such case exists at the present moment. It is that of a very ho-

nest and most unfortunate gentleman, a Bankrupt through no fault of his own, but who has been involved in ruin by the villany of a partner, and who yet, without the pretence of any imputation on his conduct, remains without his certificate, merely because it is the pleasure of a creditor of large amount that it shall be withheld.

"It could not but occur to those who framed the statute of 5 Geo. II. that a creditor smarting under a pecuniary loss, and invested with the power of inflicting such an injury, or of conferring so valuable a boon, on his debtor, as the withholding or granting his certificate, would be likely enough, unless restrained by law, to make a traffic of his authority, and to accept a bribe for the exercise of his judicial discretion. They have accordingly strictly forbidden creditors to receive, either from the Bankrupt or from any other person, any consideration whatever for signing a certificate; and have declared a certificate signed for any such consideration void. But in spite of the prohibition of this law, no man conversant with the subject can doubt, that in very many instances, money, or other valuable considerations, are still taken for signing certificates. It frequently happens, too, that in order to recover some part of the property which is to be divided among the creditors, or to resist some demand set up against the estate, it becomes necessary to examine the Bankrupt as a witness;

but he can be rendered a competent witness only by granting him his certificate. In all such cases the creditors, without any regard to the past transactions of the Bankrupt, or to his conduct under the commission, but with a view only to the dividends they are to receive, affix their signatures. Nothing surely can be more destructive of the only just end of punishment, than such examples as these; and if punishment be not the object of those hardships and severities to which an uncertificated Bankrupt is exposed, they are very wantonly and cruelly inflicted on him.

"Upon the subject however of certificates, it should be observed that the two effects which by our law follow their being granted or refused, admit of very different considerations. Whether a man whose debts remain unpaid, no matter from what cause, should be allowed to make what use he pleases of after-acquired property, and to keep it entirely privileged from the claims of his former unsatisfied creditors, admits of a very different consideration from the question, whether he ought to be exposed in his person to a severe and cruel restraint for not paying debts which the law has made it impossible for him to pay. Between these different consequences, however, of a Bankrupt's certificate being withheld, the law as now existing makes no distinction; and a creditor cannot, by signing a certificate, afford a Bankrupt a shield against

oppression, without resigning all claim to receive satisfaction for his debt out of the Bankrupt's future opulence. It should be observed too, that it may be both impolitic and unjust to prevent a Bankrupt from enjoying in security the fruits of his future industry; and yet be quite consistent with justice and expediency, that accessions of fortune which are not obtained by his own exertions, should have no such protection. Hence a distinction might reasonably be made betwcen the future earnings of a Bankrupt, and the property he may derive from gift or from inheritance; or if it should be thought just to preserve the law which subjects even the produce of the subsequent labour or ingenuity of an uncertificated Bankrupt to the payment of his antecedent debts, yet it might be expedient, in order to prevent the bad effects of so fatal a restraint upon industry, to make some distinction with respect to the amount of such acquisitions; and to let what should remain only, after a reasonable provision for the Bankrupt and his family, be considered as a fund for the liquidation of his unsatisfied debts.

"If it be right that the creditors should have the power of deciding whether a Bankrupt shall have his certificate, I see no reason to object to the old law, which required that the number of assenting creditors should be *four fifths* of the whole: and though the Act of the 49 Geo. III. which requires the assent only of *three fifths*,

is generally called my Act, because I was the original mover of it in the House of Commons; *yet that alteration was never suggested by me, nor was I ever consulted upon it.* As the Bill was brought into and passed the House of Commons, it gave the Bankrupt a right of appealing to the Lord Chancellor, from the decision of his creditors, if they refused him his certificate, as had been done in Ireland in certain cases, by several Acts of the Irish Parliament, particularly the 21 and 22 Geo. III. cap. 59; the 25 Geo. III. cap. 25; the 37 Geo. III. cap. 25; the 39 Geo. III. cap. 25; and the 39 Geo. III. cap. 57.—This clause was struck out in the House of Lords, and the alteration as to the proportion of creditors required to sign the certificate, was substituted in its place. A number of clauses were in the same manner added to the Bill by the Lords, from the 15th section to the end of it, for which I certainly can claim no praise, and deserve no blame. Though known to be the author of the Bill, I received no intimation whatever that any such additions or alterations were intended; and as the Bill, according to a practice which is extremely common with respect to Bills coming up from the Commons, and purporting to make important alterations in the law, was put off by the Lords to the last days of the Sessions, it did not come down to the Commons in its altered state

till the day before Parliament was prorogued; and consequently all opportunity of considering the propriety of the Lords' alterations was denied to the Commons.

"The defects in the Bankrupt Laws which I have already mentioned,—those which are found in them when considered as penal laws, and those which relate to certificates, I consider as being by far the most important. There are, however, as it appears to me, other evils resulting from those laws, which ought not to be overlooked; such as the extensive and numerous litigations which attend them, the very great expense of commissions, and their inadequacy to relieve a Bankrupt from all his engagements. The validity of a commission may, after the party has been found a Bankrupt under it, be contested in a variety of ways. It may be disputed by the Bankrupt himself, by any of his creditors, and by any of the persons who are indebted to the estate. It may be disputed in petitions to the Chancellor, in actions brought against the assignees, or against the messenger, and in the defence which may be made to actions brought by the assignees. The expense which attends these litigations is enormous; and property which, at the time of sealing the commission, would have afforded a large dividend to the creditors, is by such proceedings often very greatly diminished, and sometimes wholly consumed.

"It was the object of the statutes of 46 Geo. III. and 49 Geo. III. to diminish this evil, by making it impossible to overturn commissions by reason of prior secret acts of bankruptcy, and by dispensing with the necessity of proving all the requisites to support a commission in any action by the assignees, unless the party against whom it was brought meant really to try the validity of the commission, and would, at the risk of costs, give notice of such his intentions; and those Acts have certainly prevented some litigation, and saved some expense. But a more effectual remedy should be applied, and perhaps the most effectual would be that suggested by Mr. Stevens, in his evidence given before the Committee in the last Session, namely, to make the adjudication by the commissioner, when acquiesced in by the Bankrupt for a certain period, final in all cases, except those of commissions fraudulently taken out at the instance of the Bankrupt himself. It is important that something of this kind should be provided, not only for avoiding the litigation and expense which belong to these proceedings, but to protect assignees from the vexation and ruin which may be brought on them, notwithstanding their conduct may have been the most honourable, and the best calculated to promote the interests of the creditors, if it happens that the commission under which they have acted proves to be invalid.—A commission of Bankrupt, and a certificate of the

Bankrupt having conformed under it to the statute, will not, as the law now stands, protect him from being answerable for all his former pecuniary engagements: and this appears to be a very great imperfection in it. All the provisions of the law, as well those of a criminal as of a civil nature, seem to proceed upon the principle of the Bankrupt being completely discharged from all such engagements. Upon no other ground can it be just to take away all his property and distribute it amongst his creditors, or to subject him to severe punishment, if he do not make a full disclosure of it. It is surely the grossest injustice to take from a man all the means of paying his debts, and yet to leave him answerable for those debts, and to punish him by imprisonment if he do not discharge them.

"To remove this evil, in some degree, was the object of the statute of 49 Geo. III. and it has accordingly allowed the proof of different debts under the commission, which before were not provable, and consequently made the Bankrupt's certificate a discharge for them. That statute, however, has not gone so far as it ought to have done; but, that more was not attempted by it, will not surprise those who know what difficulties a private individual, who presumes to propose amendments of the law, has to encounter. — All contingent debts ought, upon a proper estimate being made of their value, to be

admitted to be proved, since nothing is left in the hands of the Bankrupt to answer such demands when the contingency may happen. As the law now stands, contingent debts cannot be proved, though all a Bankrupt's property, even that in which he has only a contingent interest, is devisable amongst his creditors, who come in under the commission. It should seem too, that all debts, which at the time of the bankruptcy remain in unliquidated damages, and which are now excluded, ought to be admitted to be proved; the amount of such damages being previously ascertained before the commissioners, or in such other mode as may be thought expedient. Where such a demand is constituted by contract, this probably would not be much objected to; but there is certainly much difficulty when the demand arises out of some personal wrong. That species of debt has, by many of the Acts of Parliament for the relief of insolvent debtors, been treated as being of a penal nature, and has therefore been excepted from their provisions. This principle has never been adopted in the Bankrupt Law; and it is only when the amount of the damages has been previously ascertained, that it is excluded in common with all other demands of an unliquidated amount, from the benefit of the commission. If a verdict has been previously recovered, the debt is provable, and is discharged by the certificate, like any other demand. The justice, too, of the

principle on which the insolvent debtors' Acts proceed, is extremely questionable. For many personal wrongs, the injured party has his choice to proceed either by indictment to exact punishment, or by action to recover a pecuniary compensation; and it would seem not a little extraordinary, if, by adopting the latter mode of proceeding, he could, for such offences as a private libel or a trifling assault, inflict perpetual imprisonment; a severer punishment than the law allows, even in cases of the most aggravated misdemeanors. There are other personal wrongs, indeed, for which by law no punishment can be inflicted, such as adultery and the seduction of a daughter; the defect of the law, however, in this respect, ought not to be supplied by such indirect means, and punishment in such cases should not be left to depend upon the indifferent and accidental circumstances which are to determine whether debts arising out of such transactions are or are not barred by a certificate.

"Another description of debts from which a Bankrupt is not released by a commission, and by his certificate, are those which are due to the Crown. It does not appear to me that any just reason can be assigned for distinguishing such debts in this respect, from debts due to a subject; at any rate, it should be provided, that no extent at the suit of the Crown should be effectual after the debtor had by the commissioners been declared a Bankrupt, in order to save the expense of a

provisional assignment, which is of no other use than to protect the Bankrupt's property from extents.—Some provision too is wanting to compel a Bankrupt, who is seised of real property in the Colonies, or in a foreign Country, which, by the municipal law of the place where it is situated, will not be affected by his commission, to convey it to his assignees for the benefit of his creditors.

"Another part of the Bankrupt Law which has long appeared to me to require alteration, and which I have known in many instances productive of extraordinary injustice and oppression, is the facility with which commissions can be taken out. If a trader is indebted to any man in 100*l.* or, if any person will swear that he is indebted to him in that amount, the real or pretended creditor, on getting a witness to swear that an act of bankruptcy has been committed, may, without the least previous intimation, and by a mere *ex-parte* proceeding, make the trader a Bankrupt. The immediate consequence is, that all his property is taken possession of; his trade is put a stop to, and he is compelled to surrender to the commission, and to submit to be examined as to all his concerns; and all this, though he might be able, if an opportunity were afforded him, to prove that he had never committed any act of bankruptcy, and that he does not owe the man who is prosecuting the commission a single shilling. This proof he can only be allowed to give

upon a petition to the Lord Chancellor to supersede the commission, or in an action which he may bring against the messenger, or the assignee, to recover his property. Several months must elapse; several years may, and sometimes do, elapse before he can have such a petition or such an action finally decided. In the mean time, not only is all his property withheld from him, but it is in the hands of the person with whom he is contending, and affords the means of protracting the litigation, and of supporting his oppressor in his injustice. The Bankrupt is without any resources but such as his friends may from charity advance him, while his opponent is, with the Bankrupt's property, resisting his just demands. I have known several instances of this kind: commissions taken out without any colour of justification, either in respect of the insolvent circumstances of the supposed debtor, or of there having been any act of bankruptcy committed; and I have known that such commissions have in the end been superseded, and the persons who took them out have been ordered to pay all the costs of the proceedings: but I never knew an instance of this kind in which the person against whom the commission had been taken out, was not, notwithstanding his ultimate success, completely and irretrievably ruined.—Such proceedings as these sometimes originate in malice; sometimes in indifference to consequences which will

only affect a man's debtor; and sometimes, and indeed most frequently, in a desire to create law expenses, by which an attorney, who is either himself the petitioning creditor, or who has suggested the measure, is largely to profit. This, in my opinion, most urgently calls for some remedy, though I am not prepared at the present moment to say what that remedy should be.

"It seems to have been the opinion of several Gentlemen who were examined before the Committee of last Session, that it would be a great improvement in the administration of the Bankrupt Laws, if there were fixed and permanent lists of commissioners in the country, to whom all commissions must be directed, as is the case in London, instead of leaving it to the person who takes out the commission to have it directed to what commissioners he pleases; provided only that two of them be barristers. I am not myself, by any means, satisfied that this is desirable. It is true, that the duty of commissioners would probably, under such a system, be somewhat better discharged than it is at present; but I doubt whether the good that would result from this, would sufficiently compensate for the mischief of extending the patronage and influence of the Crown over the profession in every part of the kingdom, by placing such a number of new offices in the gift of the Chancellor. It has always appeared to me to be of great importance to the public, to preserve as

much as possible the independence of lawyers; and I know of no more effectual mode of destroying that independence, than by accustoming them to be looking up to the favour of the Chancellor, for an appointment, not only lucrative in itself, but which is a recommendation and an introduction to business. Lord Rosslyn, when Chancellor, took upon himself to have such lists made out in several of the principal trading towns in England; but this had not been done by any of his predecessors; and the present Lord Chancellor has rejected this patronage, and has always expressed his disapprobation of what he has been pleased to say, he considered as an exercise of favour, which was unfair towards those whom it excluded; and though he has continued the directing of commissions at Birmingham, and some other places, to the lists which he found appointed when the great seal was committed to him, he has not, in a single instance, added to those lists, or even filled up the vacancies in them, which have been caused by death.—With respect to these country commissioners, some alteration should be made in the amount of their fees. They are now allowed, like town commissioners, only twenty shillings for each meeting they attend; and so imperative is the statute, that it declares, that any commissioner who shall take a larger fee shall be disabled for ever from acting as a commissioner in any commission. This positive injunction is

however every day disregarded; the fee which is allowed being a very inadequate compensation, where a barrister (as is often the case) has to travel a considerable distance to the place appointed for the meeting, in addition to the long attendance which may be required of him.

"The evils which I have noticed appear to me to be those which require most to be corrected in the Bankrupt Laws. There are other matters, however, which deserve attention in any attempt that may be made to improve those laws. These have been well pointed out by several of the Gentlemen who gave evidence before the former Committee. The expense attending the execution of commissions seems of late to have considerably increased; their meetings to be greatly multiplied; and the custom of having counsel to attend them to have become extremely common: for the inconveniences which all this may occasion, it is certainly not very easy to provide a remedy. In one instance, however, which it may be worth mentioning, meetings of commissioners are often had which seem to me wholly unnecessary; I mean the meetings which are called to authorize the assignees in laying out the money in their hands in the purchase of Exchequer bills. Notwithstanding the seventh section of the Act of 49 Geo. III. which was most inconsiderately added to the Bill after it had been brought into the House of Commons, no such meetings can be necessary. The

laying out money in Exchequer bills for the benefit of the creditors, and depositing them in the hands of the bankers appointed under the commission, could not possibly subject the assignees to any penalties; and the sanction of the commissioners to such a measure must be quite superfluous.

"The necessity of expensive applications to the Chancellor might, in many cases, be avoided by extending the powers of the commissioners; by enabling them to keep separate accounts of the joint and separate estates of Bankrupts, and to admit the proof of joint debts under separate commissions; by allowing them to take cognizance of equitable as well as of legal mortgages; by authorizing them to expunge the proof of debts admitted by them, upon the production of evidence not known when the proof was admitted; and by empowering them to compel the attendance of witnesses and the production of documents necessary for their proceedings."

BRISTOL ELECTION.

The following speech was delivered by Sir Samuel Romilly on the 2d of April 1812, upon his health being drank at a public dinner in Bristol, to which he had been invited by a numerous and respectable body of electors of that city.

"Gentlemen,

"I return you my sincere and warmest thanks for the honour you have done me. These, however, are terms which but faintly express the sentiments which I feel upon this occasion. Indeed no expressions that I can use, and I fear no actions that I can perform, would make an adequate return for the exertions you have made and are making in my favour. It is only in the consciousness of the disinterested and patriotic motives by which you are actuated that you can find that return. When it was first intimated to me that my conduct in Parliament had attracted the notice of many of you, and had produced a desire that I should be put in nomination to be one of your representatives, I own that I received the information with surprise, but yet with the most heartfelt delight. Though I have never made public favours the object of my pursuit, yet I have always thought, that, next to

the satisfaction which every man feels from the consciousness of having endeavoured well and faithfully to discharge important duties, the best reward, in this life, is the approbation and applause of a generous and enlightened people.'

"I rejoiced at it too from other and higher considerations than those which are personal to myself. I rejoiced to find that the sentiments, and opinions, and principles, which I had entertained, and on which I had acted, on subjects of the deepest interest to the Country, were probably the principles and sentiments of a large portion of the inhabitants of Bristol, and consequently, I believed, of a large portion of my countrymen in every part of the kingdom. I looked forward with exultation to the time when, in resisting measures which might appear to me to be the fruits of pernicious counsels, or in supporting or proposing those which I might think conducive to the best interests of the Country, I should speak, not as a humble and unsupported individual, but with the weight and authority and commanding influence of this great and populous city.

"I hailed it too as a most fortunate and auspicious circumstance, that preparatory to a general election about to take place at a crisis as important as any that is to be found in our history since the Revolution, an example was likely to be set by the city of Bristol, of looking for a representative towards men who could have no recom-

mendation but their public conduct, and in overlooking all personal favour and private attachment, when in competition with the interest of the nation. I could not doubt that such an example, set by a city which must have such influence on public opinion, would awaken other places of popular election to a sense of the importance of conscientiously exercising their elective rights in the return of a Parliament, upon whose wise and honest, or rash and corrupt councils, will depend every thing that is most dear and valuable in life, —every thing that can most vitally affect ourselves and our posterity.

"In the midst, however, of the satisfaction which I felt, one reflection arose which has occasioned me much pain,—which has thrown a gloom over my mind, and has prevented my fully enjoying the splendour of the present day. I have been unable to avoid comparing what, it is too evident, you have conceived me to be, with what I feel I am. That I may not disappoint the expectations you have formed of me is my wish, rather than my hope; but there is no sacrifice to which I will not submit, to accomplish it.

"Every man who offers himself as a candidate for popular representation, puts himself, as it were, upon his trial before his Country—he must expect the most severe inquiry into the whole of his past conduct, private as well as public. He must expect to hear the whole truth, and more than

the truth. It is impossible that, in the midst of the rivalship and of the various passions which such occasions excite, calumny should not often be mixed with just accusation. I cannot, however, consider it but as a circumstance highly honourable to this city, and creditable to those to whom I am opposed, that so very little has been objected to me, of which any honest man need be ashamed.

"Some things however have been objected to me, upon which, if I am not trespassing too long upon your patience, I should be glad to make a few observations. It has been said that I once filled a public office, and that I am desirous of being again in such a situation, and of again receiving a salary from the public money.—It is true that I had the honour of being appointed His Majesty's Solicitor General; and it is also true, that if office were again offered to me under the same circumstances,—if I could accept it without swerving in any degree from the line of conduct which I have hitherto pursued;—if I should feel, that by accepting it, instead of abandoning my principles, I should acquire the means of giving effect to them—it is true that I would accept it, and would receive the honest emoluments belonging to it. I should think that, by so doing, I was not departing from, but discharging, my duty; that I was only putting myself in a situation to be more useful to the Country than I

can now be;—but, *it is only by an adherence to the principles which I have hitherto professed, that I can ever be useful in any situation.*—I do not however believe that I shall be put to this test; I have little doubts that I am destined to pass the remainder of my life in privacy; and it is a destination with which I am well contented, for I had rather leave to my children only a name connected with measures which tend to increase the happiness, or to assuage the evil, of any portion of my fellow-subjects, than the proudest title which the Crown has to bestow, or the amplest possessions which the long enjoyment of the most lucrative office could enable me to acquire.

"It has been said, I understand, that I cannot undertake that business relating to your local interests, which is justly expected from a representative of Bristol. To this my answer is, that I have said, I will undertake it.—It has been observed, that to do so I must give up a large portion of that time which is now occupied in the pursuits of my profession; but I have made such sacrifices already to a considerable extent, and I am prepared to make still greater sacrifices in your service.

"I have seen it also stated, that I am a man devoted to a political party. Gentlemen, if by my devotion to party is meant, the giving up my judgment, and voting against my reason and my conviction, for measures, because those, with

whom I generally act, have adopted them, I wholly deny the charge, and I appeal to my conduct in Parliament for my defence: but if by attachment to party, is meant only an adherence to those whose public principles I wholly approve, and in whose hands I, in my conscience, believe the Government can be most safely intrusted,—to that charge I have no defence to make. I reflect with satisfaction on my connexion with that Administration, of which one of the principal members was that illustrious Statesman—that strenuous assertor of the cause of religious and civil liberty, the late and ever to be lamented Mr. Fox,—on my connexion with that Administration, which was not exempt from errors undoubtedly, but which carried the two measures which have most tended to improve the condition of mankind, of any that have taken place in the course of the present reign,—the abolition of the Slave Trade, and the enlistment of Soldiers for a limited period, instead of an enlistment for life,—thus preserving to those armed citizens, an interest in the blessings of our Constitution,—suspending only, not taking away from them, the trial by Jury, and the writ of Habeas Corpus, and thereby securing to them a reversion of those liberties which they had fought to defend. It is with satisfaction, too, that I reflect upon the union of my name with those of the distinguished Statesmen who are still preserved to us. That I had an office under the

Administration of which they were the chiefs,—that I have enjoyed their friendships in retirement, and that when they are excluded from office, because they will not abandon their principles, I have the honour to be comprehended in that exclusion, are to me matters of pride and exultation.

"I have seen other things objected to me in publications, which are perhaps hardly worth noticing. I have seen it objected, that I voted for measures which I did not and could not vote upon, because they were carried before I had a seat in Parliament. I have heard it made a matter of reproach to me, that I was the author of a Bill which passed in the last Session, and which has put an end to arrest upon mesne process for debts of less amount than £15. That measure was not proposed by me; it originated in the House of Lords; it passed the Commons without a single observation, and no vote was ever passed upon it: but I claim no merit for this, for I ought to add, that if it ever had come to a vote, I certainly should have supported it.

"There is another matter, which perhaps does not deserve to be mentioned; and yet I should be glad to say a few words upon it. It has been published in this city that I am a foreigner, and that if you elect me you will send a foreigner to represent you in a British Parliament. Gentlemen, I was born and educated and have passed

my whole life in England, with the exception of a short interval which was spent in visiting foreign countries. My father too was born and educated in England, and spent his whole life in it. My grandfather, it is true, was not an Englishman by birth, but he was an Englishman by choice. He was born the heir to a considerable landed estate at Montpelier, in the South of France. His ancestors had early imbibed and adopted the principles and doctrines of the reformed religion, and he had been educated himself in that religious faith. He had the misfortune to live soon after the time when the edict of Nantes, the great Toleration Act of the Protestants of France, was revoked by Louis XIV.; and he found himself exposed to all the vexations and persecutions of a bigotted and tyrannical Government, for worshipping God in the manner in which he believed was most acceptable to him. He determined to free himself from this bondage; he abandoned his property, he tore himself from his connexions, and quitting the country and its tyrant, sought an asylum in this land of liberty, where he had to support himself only by his own exertions. He embarked himself in trade—he educated his sons to useful trades, and he was contented, at his death, to leave them, instead of his original patrimony, no other inheritance than the habits of industry he had given them, the example of his own virtuous life, an hereditary detestation of tyranny and in-

justice, and an ardent zeal in the cause of civil and religious freedom. Among other reasons I have to bless his memory is—that I am an Englishman. Gentlemen, this is my origin;—I trust I need not blush to own it.

"Gentlemen, I am sorry to have so long detained you. I can but again return you my thanks. That I may be what you already so indulgently believe me to be, is the first wish of my heart and shall be the unremitted study of my life."

BRISTOL ELECTION.

October 6th, 1812.

The candidates for the representation of Bristol were Mr. Hart Davis, Mr. Protheroe, Mr. Hunt, and Sir Samuel Romilly. Sir Samuel Romilly having been proposed by Mr. Castle, the Mayor of Bristol, and seconded by Sir Abraham Elton, Bart. rose and addressed the Meeting to the following effect.

"Mr. Sheriff and Gentlemen,

"I appear before you to offer you my services as one of your representatives in Parlia-

ment. If you shall repose that important trust in me, I shall consider it as the highest honour that can be conferred on me, and as the best reward I can receive for my past endeavours to serve the public. It is not, however, merely as an honour and a reward that a seat in Parliament ought to be considered, but as an office of great difficulty and fatigue, of deep responsibility, and one which no person in my situation can properly and honestly fill, without making many, and almost constant sacrifices of his time, his ease and his comforts, perhaps of his health, and certainly of his emoluments. These sacrifices I am willing, nay, I am anxious to make in your service, and I shall be proud of having those duties imposed upon me. If, however, you shall, in the contest which is about to take place, decide against me, I shall submit to your decision with perfect cheerfulness; and if I am to retire into private life, I shall (while I am enjoying those domestic comforts which I have the happiness to possess in as large a portion as falls to the lot of most men, and while I am devoting my time to the occupations of a lucrative profession) have the satisfaction to reflect, that my doing so proceeds from no mean or selfish motive of preferring my own private advantage to the public good, but from my fellow-citizens having rejected the services which I had tendered them.

"It has been usual for persons who stand in the

situation of candidates to make professions of their political opinions, and to give promises of their future conduct; and this is undoubtedly proper in those who have not yet been tried, and who have no acts of their former life to refer to. But with those whose public life is already before you, such professions and promises can be of little avail; for, either they are consistent with what they have already done, and are then unnecessary, or are at variance with it, and in that case are entitled to no credit.

"I shall therefore, upon this occasion, neither promise nor profess, nor shall I *presume* to remind you of what I have attempted to do; but I may with propriety tell you what are the qualifications, which in my opinion you ought, at the present crisis, to look for in a representative.—He ought to be a man firmly attached to those principles of our Constitution which were established at the Revolution, and which have seated and maintained the present Royal Family on the throne. — He should justly appreciate, and be ready at all times to maintain, the liberty of the press and the trial by jury, which are the great securities for all our other liberties.—He should be a sincere friend to peace, and anxious to seize on every opportunity of securing all the blessings which it must bring with it, whenever there is a prospect that it can be permanently obtained.—He ought to be determined,

whenever the men, with whose political principles he generally agrees, and with whom he therefore generally acts, propose or support measures which, in his conscience, he disapproves, to oppose them, just as if they were the measures of his political adversaries.—He should be an enemy to that influence of the Crown and of the Ministers of the Crown which has been so fatally exercised in the House of Commons, and consequently a friend to Parliamentary reform.—He should be a constant advocate for economy in the public expenditure, and a determined enemy to corruption and peculation; and if he thinks he discovers them in persons of the higher rank, he should not be deterred from censuring and arraigning them by any apprehension, that by so doing he may incur their high displeasure, and blast for ever all the prospects of honourable ambition in which he may at some time have indulged.—He should be ready, when he sees evils arising from any of our present institutions, to inquire into the cause of them, and to suggest a remedy, notwithstanding the reproach of being an innovator, which he may incur from those who have an interest in perpetuating abuses.—Above all he should be a man incapable of being swerved from his duty by the threats of power, the allurements of the great, the temptations of private interest; or even the seduction of popular favour; and who should constantly recollect that all the toil, the pain, and

the fatigue of his office, must be his own; and all the advantages which are to result from his labours must be for the public.

"These are the qualifications which, in my opinion, you ought to look for in your representatives. Perhaps it is not prudent in me to state them. Perhaps, in this enumeration, I have been pronouncing my own condemnation; and in pointing out to you what is requisite in a member of Parliament, I have only been reminding you of what is wanting in myself. Of this you are the judges; but whatever be the consequence, I shall rejoice in what I have done; for this I can with perfect sincerity declare, that I may be elected by you is only the second wish of my heart. The first is, that Bristol and other places of popular election may send to Parliament, able, honest, disinterested, and patriotic members.

"Gentlemen, amongst the qualifications which are, in my opinion, requisite in a Member of Parliament, I have not said that he should be determined, under no circumstances, to accept an office under the Crown. I have not said so; because that is so far from being my opinion, that I think there are circumstances in which it may be his duty to accept such an office. I should be sorry to be misunderstood by you upon this subject; and I am glad of this opportunity of avowing what my opinion upon it is; and indeed, in appealing to my past conduct, I have told you that

was my opinion, since I formerly myself held an office under the Crown. If a man barters his principles for office, if in office he acts upon different grounds from those which he professed to act upon, before he obtained it, and if his official conduct is a constant violation of those rules which he had, when in opposition, prescribed for others, there are no terms which, in my opinion, are too strong or too severe to stigmatize such political apostacy. But if, in office, his views and his principles are the same as when he was in a private station, he deserves, in my opinion, no reproach for accepting it: and if it be, as I conceive it is, the duty of every man to use all the means which he possesses of being useful to his fellow-citizens and his fellow-creatures; and if, by accepting office, he may become eminently useful to them, it is his duty to accept it. If this opinion draws upon me the reproach of being eager to obtain office myself, I have only to entreat you to consider my past conduct. If you have found me paying my court to those in favour, professing opinions which are known to be a recommendation to office, or using those means of acquiring it, which have generally proved to be successful; in that case, but only in that case, fix this reproach upon me, and reject me for your Representative.

"In enumerating what is, in my opinion, requisite in a Member of Parliament, I have omitted to say that he ought to be a friend to toleration, and

an advocate for religious liberty to persons of all persuasions, but more especially to all descriptions of Christians; and that he ought to be a zealous supporter of that, which is, as I think, truly called Catholic emancipation, as being of vital importance to the security and happiness of this country, and which consists only in removing disabilities and disqualifications to which the great majority of the people of Ireland are subject, only for professing and adhering to that religion in which they sincerely believe, and in which they have been brought up by their fathers.

"After saying so much of the duties of a Member of Parliament, permit me to remind you of the importance of that duty which you are to discharge. One more important never can devolve upon you. On the Parliament which is about to be elected, will depend every thing that is dear to you and to your posterity, the happiness, the prosperity, the safety, perhaps the existence of this Country. You are to exercise an important trust, not for yourself only, but for that large description of your fellow-subjects, who, in the present state of the representation, have no voice upon these occasions.

WESTMINSTER ELECTION.

July 4th, 1818.

At the close of the election for Westminster Sir Samuel Romilly came forward on the hustings, and addressed the people to the following effect:

"Gentlemen, as long as the contest, which has just terminated, was depending—as long as my appearance amongst you could be considered as a solicitation of your votes for an honour, which whatever the kind partiality of my friends may have induced them to think, I never presumed to imagine myself deserving of,—I abstained from presenting myself to you; but now that the contest is at an end,—now that I have been chosen one of your Representatives, and that I can address you by the endearing name of my Constituents, I hasten to appear before you, and to thank you for the honour you have done me, and for the confidence you have placed in me. To be chosen by your free and unbiassed votes, to represent this great, populous, independent, and enlightened City in Parliament,—to be selected from amongst public men to declare your will, and express your sentiments upon all the most important questions

that can interest the community, is, in my estimation, the highest honour to which, in this free State, any individual can be raised. It is an honour to which, notwithstanding the decision you have pronounced, I can still hardly venture to think that I had any just pretensions. The endeavours I have used to serve the public, have, by the too indulgent partiality of others, been greatly over-rated; and I ought rather to offer an apology for what has been said of me, than to claim the benefits of such a panegyric. I have, indeed, endeavoured to be useful to the public, but my endeavours have seldom been successful. Such, however, as they are, it is those endeavours which alone have recommended me to your favour; for though born, and having passed my whole life amongst you, it is by my public conduct alone that I have become known to you.

"Gentlemen, I really have not words adequately to express the gratitude which I feel. I am sensible, however, that the thanks which it will become me to give, and which will be worthy of you to receive, are thanks not to be expressed in words but in actions,—not in this place, but within the walls of the House of Commons. The Representative of Westminster should express his thanks by a faithful discharge of the sacred duties which you have imposed on him—by a constant and vigilant attention to the public interest,—by

being a faithful guardian of the people's liberties, and a bold assertor of their rights—by resisting all attacks whether open or insidious, which may be made upon the Liberty of the Press, the Trial by Jury, and the Habeas Corpus, the great security of all our liberties—by opposing all attempts to substitute in the place of that Government of law and justice to which Englishmen have been accustomed, a Government supported by spies and informers—by endeavouring to restrain the lavish and improvident expenditure of public money—by opposing all new and oppressive taxes, and above all, that grievous, unequal, and inquisitorial imposition, the Income Tax, if any attempt should be made in the new Parliament to revive it—by endeavouring to procure the abolition of useless and burdensome offices,—a more equal representation of the people in Parliament, and a shorter duration of the Parliament's existence—by being a friend of religious, as well as of civil liberty,—and by seeking to restore this Country to the proud station which it held amongst nations, when it was the secure asylum of those who were endeavouring to escape in foreign countries from religious or political persecution.

"These are the thanks which the Electors of Westminster are entitled to expect; and when the time shall come that I shall have to render you an account of the trust you have committed to me, I

trust in God, that I shall be able to show that I have discharged it honestly and faithfully. — Gentlemen, for myself I return you my sincerest thanks, and for the result of the election I offer you my warmest congratulations."

THE END OF VOLUME THE SECOND.

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